

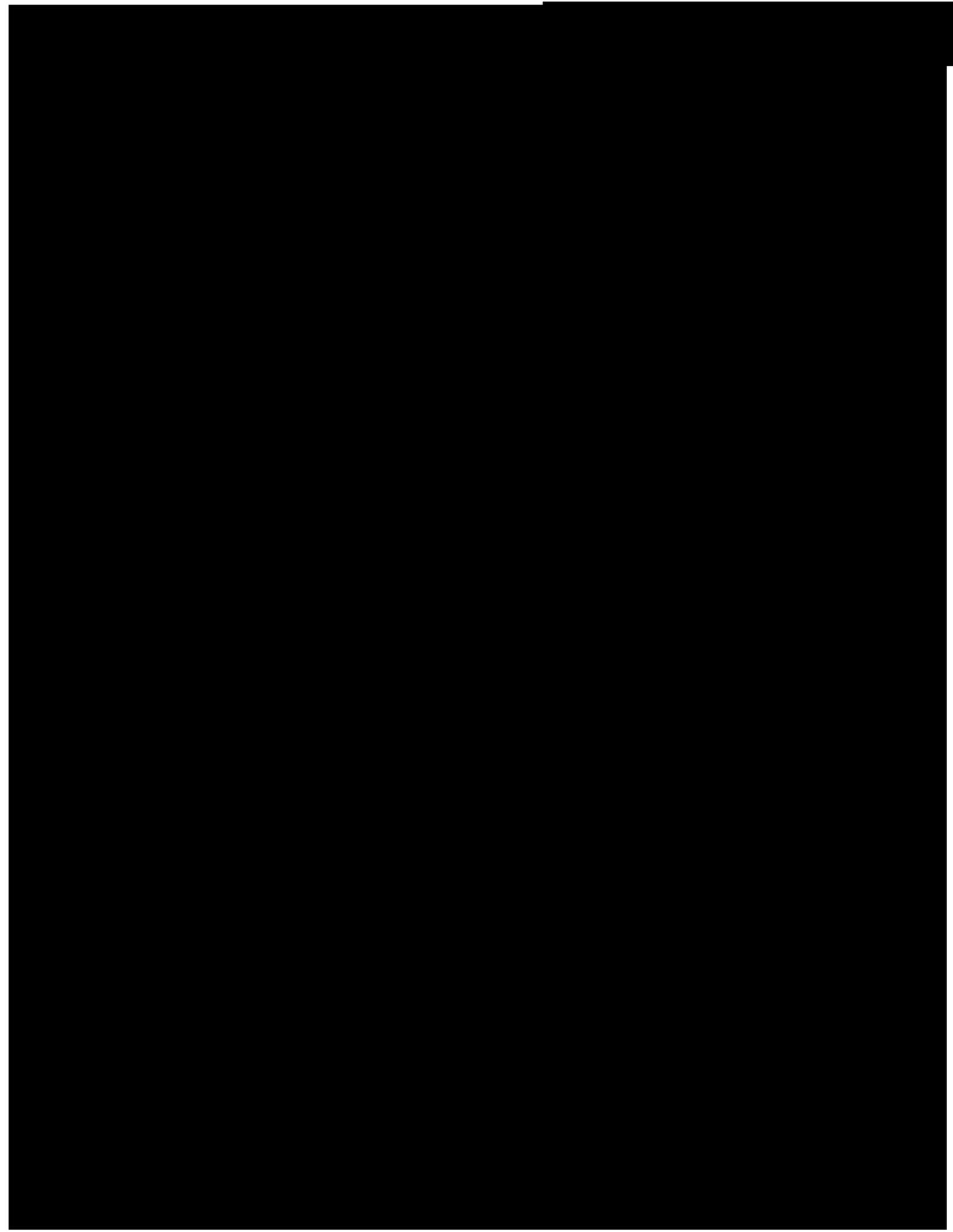
Contract Terms/Clauses

Attachment 2.3.5

RFP Reference: 2.3.5

The following documents are available in this attachment:

- RFP Attachment B markup, Page 2
- Deloitte Consulting LLP: EDS F1-3-99-13-CL-9221, Page 27
- Deloitte Consulting LLP: 99-13-CL-9221A Exhibit D, Page 57
- Deloitte Consulting LLP: DCS Invest Contract 40759 Page 59



**INDIANA FAMILY AND SOCIAL SERVICES ADMINISTRATION
DIVISION OF FAMILY RESOURCES
CONTRACT WITH:
DELOITTE CONSULTING LLP
EDS # F1-3-99-13-CL-9221**

This Contract ("this Contract"), entered into by and between the Indiana Family and Social Services Administration, Division of Family Resources (the "State") and Deloitte Consulting LLP (the "Contractor"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

1. Duties of Contractor.

The Contractor shall provide the following services relative to this Contract:

The Contractor, in conjunction with the State, the Indiana Office of Medicaid Policy and Planning, and the Indiana Office of Technology (IOT), will be responsible for the Design, Development and Implementation (DDI) of the Indiana Eligibility Determination Services System (IEDSS). The specific services to be provided by the Contractor are detailed in **Exhibit A – SOW** ("Services") which is attached hereto and incorporated herein. Contractor shall meet the service level agreements stated in **Exhibit B – Service Level Agreements** which is attached hereto and incorporated in the performance of the Services.

2. Consideration.

The Contractor will perform the Services on a fixed-fee basis as defined in Section 9, Fees and Expenses of **Exhibit A – SOW** and Appendix 10, DDI Facilities of **Exhibit A – SOW**. Unless otherwise agreed to by the parties, Change Orders will be based on hours worked at the hourly rates set out in **Exhibit C – Rates** which is attached hereto and incorporated herein. The hourly rates set forth in **Exhibit C – Rates** include travel and other related out of pocket expenses for the performance of Services as set forth in this Contract. The State's travel policies and procedures as set forth in Section 43 shall apply if and only to the extent Contractor invoices separately for travel expenses. The total remuneration under this Contract shall not exceed \$63,267,954.62 as fully set out in **Exhibit A – SOW**. The parties agree that the Contractor shall be responsible, in its discretion, to determine the mix of labor categories/resources to utilize to perform the Services as required under this Contract.

3. Term.

This Contract shall be effective for a period of Thirty One (31) months. It shall commence on November 26, 2012 and shall remain in effect through June 30, 2015.

4. Access to Records.

The Contractor and its subcontractors, if any, shall maintain books, documents, papers, accounting records, and other evidence directly pertaining to all labor hours charged under this Contract. They shall make copies of such materials available at their respective offices, following reasonable notice by the State, at all reasonable times during this Contract term, and for three (3) years from the date of final payment under this Contract, for inspection by the State or its authorized representative of state government. Copies shall be furnished at no cost to the State if requested. Any records available to the State hereunder may be identified by

Contractor as confidential information of Contractor, will be subject to the confidentiality provisions contained in Section 11 of this Agreement and may be redacted by Contractor to the extent necessary to protect its proprietary and confidential information and to avoid any invasion of personal privacy as long as all information necessary to perform a proper audit of the labor hours charged is provided.

5. A. Assignment; Successors.

The Contractor and the State bind their successors and assignees to all the terms and conditions of this Contract. The Contractor shall not assign or subcontract the whole or any part of this Contract without the State's prior written consent. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the State, provided that the Contractor gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

5. B. Assignment of Antitrust Claims

As part of the consideration for the award of this Contract, to the extent the Contractor purchases products or services on the State's behalf under this Contract, the Contractor assigns to the State all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws for overcharges resulting from violation of state or federal antitrust laws relating to the products or services which are the subject of this Contract., except as to overcharges not passed on to the State.

6. Audits.

The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC 5-11-1, et. seq. and audit guidelines specified by the State.

7. Authority to Bind Contractor.

The signatory for the Contractor represents that he/she has been duly authorized to execute this Contract on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Contractor when his/her signature is affixed, and accepted by the State.

8. Changes in Work.

The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the State. Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.

9. Compliance with Laws.

- A. The Contractor and its personnel and subcontractors shall comply with all applicable federal, state and local laws, and governmental rules, regulations and ordinances, and all provisions

required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract require formal modification.

- B. The Contractor and its personnel and subcontractors shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6 *et seq.*, IC § 4-2-7, *et seq.*, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <http://www.in.gov/ethics/>. If the Contractor or its personnel and subcontractors violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44-1-3, and under any other applicable laws.
- C. The Contractor certifies by entering into this Contract that neither it nor its principal(s) providing Services hereunder is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State. The Contractor agrees that any payments currently due to the State may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.
- D. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will promptly notify the State of any such actions. During the term of such actions, the Contractor agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.
- E. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest, except as permitted by IC § 5-17-5.
- F. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all applicable required permits, licenses, registrations, and approvals, and shall comply with all applicable health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State hereunder. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.
- G. The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- H. As required by IC 5-22-3-7:

- (1) the Contractor and any principals of the Contractor certify that
- (A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of:
- (i) IC 24-4.7 [Telephone Solicitation Of Consumers],
 - (ii) IC 24-5-12 [Telephone Solicitations] , or
 - (iii) IC 24-5-14 [Regulation of Automatic Dialing Machines];
- in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and
- (B) the Contractor will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.
- (2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor
- (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and
- (B) will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

I. As required by IC §5-22-16.5, the Contractor certifies that the Contractor is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC §5-22-16.5-14 including termination of this Contract, denial of future state contracts, as well as an imposition of a civil penalty.

10. Condition of Payment.

All Services provided by the Contractor under this Contract must be performed in material compliance with Contract requirements. All payments shall be due within thirty-five (35) days of the receipt of the invoice by the State and made to the electronic payment address designated by Form W-9 on file with the Auditor of State in accordance with Section 34. The Contractor will not receive payment for Services not in material compliance with Contract requirements. Withholding of payment by the State pursuant to the preceding sentence shall be considered a dispute under Section 15 below. The State shall notify Contractor of any such dispute not more than thirty-five (35) days from the receipt of the invoice by the State. In the event of a termination or cancellation of this Contract for any reason, the State shall pay Contractor for all Services provided prior to the date of termination, that are in material compliance with the requirements of this Contract. Without limiting its rights or remedies, Contractor shall have the right to halt or terminate the Services entirely if payment on amounts that are undisputed are not received within sixty (60) days from Contractor's written notice to the State of such non-payment.

11. Health Insurance Portability & Accountability Act, Title II, Electronic Transactions and Code Sets Compliance.

To the extent that the Contractor conducts a "standard transaction" (as defined by 45 CFR § 162.103) on behalf of the State in connection with this Contract, the Contractor shall comply with the Transaction Standards of HIPAA, as may be amended from time to time, and, to the extent that the Contractor conducts a "standard transaction" on behalf of the State in connection with this Contract, shall provide documentation of its compliance with them,

including a summary of project plans for remediation, status reports of remediation efforts, summary of test results, copies of certifications, if any, and the Contractor's statement affirming completion of all requirements. Such compliance shall be maintained at no additional cost to the State.

Security and Privacy of Protected Health Information, Drug and Alcohol Abuse Patient Records, and Confidentiality of State Information.

- A. HIPAA. If the Contractor receives Protected Health Information (PHI) from the State in connection with this Contract and such PHI is determined to be subject to the requirements of the Health Insurance Portability and Accountability Act of 1996, Title II, Administrative Simplification ("HIPAA"), the Contractor agrees to comply with all such requirements to the extent applicable to Contractor, including amendments signed into law under the American Recovery and Reinvestment Act of 2009 ("ARRA"), in particular, Title XIII known as the Health Information Technology for Economic and Clinical Health Act ("HITECH"), Subtitle D, in all activities related to the contract with respect to PHI, to maintain compliance during the term of the contract and after as may be required by federal law, to operate any systems used to fulfill the requirements of this contract in full compliance with HIPAA to the extent applicable to Contractor and to take no action with the intent to adversely affect the State's HIPAA compliance.

Terms used, but not otherwise defined, in this Contract shall have the same meaning as those found in the HIPAA Regulations under 45 CFR Parts 160, 162, and 164.

To the extent required of Contractor by the provisions of HIPAA and regulations promulgated thereunder, the Contractor agrees that it will appropriately safeguard all forms of Protected Health Information (PHI), as defined by the regulations, which is made available to or obtained by the Contractor in the course of its work under the contract. The Contractor agrees to comply with all applicable requirements of law relating to PHI applicable to Contractor with respect to any task or other activity it performs for the State in connection with this Contract, as required by the final Privacy and Security regulations as follows:

1. Implementing the following HIPAA requirements to the extent Contractor is required by HIPAA to implement such requirements for any forms of PHI that the Contractor receives, maintains, or transmits on behalf of the State:
 - a. Administrative safeguards under 45 CFR § 164.308
 - b. Physical safeguards under 45 CFR § 164.310
 - c. Technical safeguards under 45 CFR § 164.312
 - d. Policies and procedures and documentation requirements under 45 CFR § 164.316;
2. Implementing a disaster recovery plan, as appropriate, which includes mechanisms to recover data and/or alternative data storage sites, necessary to uphold integral business functions in the event of an unforeseen disaster;
3. Not using or further disclosing PHI other than as permitted or required by this Contract, in connection with the Services or as Required by Law (as defined in 45 CFR § 164.103) or for Contractor's proper management and administration as provided for in 45 CFR §164.504(e)(4);

4. Reporting to the FSSA HIPAA Compliance Office any security and/or privacy incident of which the Contractor becomes aware of no later than five (5) business days after the Contractor is aware of such incident;
5. Mitigating, to the extent practicable, any harmful effect that is known to the Contractor and promptly reporting to the FSSA HIPAA Compliance Office any use or disclosure by the Contractor, its agent, employees, subcontractors or third parties, of PHI obtained under this Contract in a manner not provided for by this Contract or by applicable law of which the Contractor becomes aware;
6. Ensuring that any subcontractors or agents to whom the Contractor provides PHI received from, or created or received by the Contractor, subcontractors or agents on behalf of the State agree to the same restrictions, conditions and obligations (other than indemnification) applicable to such party regarding PHI and, if applicable, agrees to implement the required safeguards to protect it;
7. Making the Contractor's internal practices, books and records related to the use or disclosure of PHI received from, or created or received by the Contractor on behalf of the State available to the Secretary of the United States Department of Health and Human Services ("DHHS"), or to the State at the State's request to the extent such material particularly relates to the Contractor's performance of the Services, in each case, for purposes of determining the State compliance with applicable law. The Contractor shall promptly notify the FSSA HIPAA Compliance Office upon receipt by the Contractor of any such request from the Secretary of DHHS or designee, and shall provide the FSSA HIPAA Compliance Office with copies of any materials made available in response to such a request;
8. In accordance with procedures established by the State, to the extent that such procedures have been provided to the Contractor in writing, making available the information required to provide an accounting of disclosures pursuant to applicable law, if the duties of the Contractor include disclosures that must be accounted for;
9. Making available PHI for amendment and incorporating any amendments to PHI in accordance with 45 CFR § 164.526, if the Contractor maintains PHI subject to amendment in a Designated Record Set;
10. In accordance with procedures established by the State, to the extent that such procedures have been provided to the Contractor in writing, making PHI in a Designated Record Set available to individuals entitled to access and requesting access in compliance with 45 CFR § 164.524 and the duties of the Contractor;
11. At the discretion of the the State authorizing termination of the Contract in accordance with its terms if Contractor has violated a material provision of this Section;
12. At the termination of the Contract, if feasible, return or destroy all PHI received or created under the Contract. If the Contractor reasonably determines that return or destruction is not feasible (such as in the event that the retention of such PHI by Contractor is required by law, regulation, professional standards, or reasonable business practice to evidence Contractor's services), the protections in this agreement shall continue to be extended to any PHI maintained by the Contractor for as long as it is maintained.

Provided that the State has complied with its obligations under this Contract, including, without limitation, those in Exhibit D (which is attached hereto and incorporated herein),

including a summary of project plans for remediation, status reports of remediation efforts, summary of text results, copies of certifications, if any, and the Contractor's statement affirming completion of all requirements. Such compliance shall be maintained at no additional cost to the State.

Security and Privacy of Protected Health Information, Drug and Alcohol Abuse Patient Records, and Confidentiality of State Information.

- A. HIPAA. If the Contractor receives Protected Health Information (PHI) from the State in connection with this Contract and such PHI is determined to be subject to the requirements of the Health Insurance Portability and Accountability Act of 1996, Title II, Administrative Simplification ("HIPAA"), the Contractor agrees to comply with all such requirements to the extent applicable to Contractor, including amendments signed into law under the American Recovery and Reinvestment Act of 2009 ("ARRA"), in particular, Title XIII known as the Health Information Technology for Economic and Clinical Health Act ("HITECH"), Subtitle D, in all activities related to the contract with respect to PHI, to maintain compliance during the term of the contract and after as may be required by federal law, to operate any systems used to fulfill the requirements of this contract in full compliance with HIPAA to the extent applicable to Contractor and to take no action with the intent to adversely affect the State's HIPAA compliance.

Terms used, but not otherwise defined, in this Contract shall have the same meaning as those found in the HIPAA Regulations under 45 CFR Parts 160, 162, and 164.

To the extent required of Contractor by the provisions of HIPAA and regulations promulgated thereunder, the Contractor agrees that it will appropriately safeguard all forms of Protected Health Information (PHI), as defined by the regulations, which is made available to or obtained by the Contractor in the course of its work under the contract. The Contractor agrees to comply with all applicable requirements of law relating to PHI applicable to Contractor with respect to any task or other activity it performs for the State in connection with this Contract, as required by the final Privacy and Security regulations as follows:

1. Implementing the following HIPAA requirements to the extent Contractor is required by HIPAA to implement such requirements for any forms of PHI that the Contractor receives, maintains, or transmits on behalf of the State:
 - a. Administrative safeguards under 45 CFR § 164.308
 - b. Physical safeguards under 45 CFR § 164.310
 - c. Technical safeguards under 45 CFR § 164.312
 - d. Policies and procedures and documentation requirements under 45 CFR § 164.316;
2. Implementing a disaster recovery plan, as appropriate, which includes mechanisms to recover data and/or alternative data storage sites, necessary to uphold integral business functions in the event of an unforeseen disaster;
3. Not using or further disclosing PHI other than as permitted or required by this Contract, in connection with the Services or as Required by Law (as defined in 45 CFR § 164.103) or for Contractor's proper management and administration as provided for in 45 CFR §164.504(e)(4);

4. Reporting to the FSSA HIPAA Compliance Office any security and/or privacy incident of which the Contractor becomes aware of no later than five (5) business days after the Contractor is aware of such incident;
5. Mitigating, to the extent practicable, any harmful effect that is known to the Contractor and promptly reporting to the FSSA HIPAA Compliance Office any use or disclosure by the Contractor, its agent, employees, subcontractors or third parties, of PHI obtained under this Contract in a manner not provided for by this Contract or by applicable law of which the Contractor becomes aware;
6. Ensuring that any subcontractors or agents to whom the Contractor provides PHI received from, or created or received by the Contractor, subcontractors or agents on behalf of the State agree to the same restrictions, conditions and obligations (other than indemnification) applicable to such party regarding PHI and, if applicable, agrees to implement the required safeguards to protect it;
7. Making the Contractor's internal practices, books and records related to the use or disclosure of PHI received from, or created or received by the Contractor on behalf of the State available to the Secretary of the United States Department of Health and Human Services ("DHHS"), or to the State at the State's request to the extent such material particularly relates to the Contractor's performance of the Services, in each case, for purposes of determining the State compliance with applicable law. The Contractor shall promptly notify the FSSA HIPAA Compliance Office upon receipt by the Contractor of any such request from the Secretary of DHHS or designee, and shall provide the FSSA HIPAA Compliance Office with copies of any materials made available in response to such a request;
8. In accordance with procedures established by the State, to the extent that such procedures have been provided to the Contractor in writing, making available the information required to provide an accounting of disclosures pursuant to applicable law, if the duties of the Contractor include disclosures that must be accounted for;
9. Making available PHI for amendment and incorporating any amendments to PHI in accordance with 45 CFR § 164.526, if the Contractor maintains PHI subject to amendment in a Designated Record Set;
10. In accordance with procedures established by the State, to the extent that such procedures have been provided to the Contractor in writing, making PHI in a Designated Record Set available to individuals entitled to access and requesting access in compliance with 45 CFR § 164.524 and the duties of the Contractor;
11. At the discretion of the the State authorizing termination of the Contract in accordance with its terms if Contractor has violated a material provision of this Section;
12. At the termination of the Contract, if feasible, return or destroy all PHI received or created under the Contract. If the Contractor reasonably determines that return or destruction is not feasible (such as in the event that the retention of such PHI by Contractor is required by law, regulation, professional standards, or reasonable business practice to evidence Contractor's services), the protections in this agreement shall continue to be extended to any PHI maintained by the Contractor for as long as it is maintained.

Provided that the State has complied with its obligations under this Contract, including, without limitation, those in Exhibit D (which is attached hereto and incorporated herein),

term is defined in Section 33 below, shall become the property of the State. The Contractor shall take such action as is necessary under law to transfer such property rights to the State and, to the extent that State Confidential Information is incorporated into such Work Product, to protect the confidential nature of such State Confidential Information in accordance with the requirements of this Section 11. Unless otherwise mutually agreed by the parties, the Contractor hereby specifically waives and/or releases to the State any cognizable property right of the Contractor to copyright, license, patent or otherwise use such Work Product, except to the extent necessary for the performance of this Contract and subcontracts in support of this Contract and except with regard to the license granted by the State to the Contractor to utilize Work Product in support of other state and local governmental agencies. To this end, the State grants the Contractor a perpetual, fully paid up, royalty free, irrevocable license to reproduce, modify, create derivative works, sublicense, display and perform Work Product in connection with the performance of contracts with other state and local governmental agencies. Contractor shall not resell or otherwise charge a fee, or receive any other compensation for use of Work Product in its original form. The State shall retain all right, title and interest in and does not grant a license to Contractor for any preexisting, proprietary or independently developed State tools, materials, or information.

- E. For purposes of these terms "Contractor Information" means all works of authorship, materials, information and other intellectual property created prior to or independently of the performance of the Services, or created by Contractor or its subcontractors as a tool for their use in performing the Services, plus any modifications or enhancements thereto and derivative works based thereon. To the extent that Contractor uses any Contractor Information, Contractor shall retain all right, title and interest in and to such Contractor Information, and except for the license expressly granted in this section, the State shall acquire no right, title or interest in or to such Contractor Information. Upon full and final payment by the State hereunder with regard to each Work Product, Contractor hereby grants to the State a non-exclusive, non-transferable, perpetual, fully paid-up license to use, execute, reproduce and internally distribute copies of any Contractor Information delivered in connection with such Work Product provided hereunder, solely for the State's internal business purposes and solely in connection with use of such Work Product.
- F. To the extent that, in connection with the performance of this Contract, the State comes into possession of any proprietary or confidential information of the Contractor ("Contractor Confidential Information"), the State agrees to use Contractor Confidential Information solely for the purpose of performing this Contract, and, to the maximum extent permitted under law, to refrain from disclosing such Contractor Confidential Information to any third party without the Contractor's written consent. State Confidential Information and Contractor Confidential Information are hereinafter collectively referred to as "Confidential Information." Confidential Information shall not include information which: (i) shall have otherwise become publicly available other than as a result of disclosure by the receiving party in breach of this Contract; (ii) is required to be disclosed by order of a court of competent jurisdiction, administrative agency or governmental body, or by any law, rule or regulation, or by subpoena, summons or any other administrative or legal process, or by applicable regulatory or professional standards; (iii) was disclosed to the receiving party on a nonconfidential basis from a source other than the disclosing party, which the receiving party believes is not prohibited from disclosing such information as a result of an obligation in favor of the disclosing party; (iv) is developed by the receiving party independently of, or was known by the receiving party

and under applicable law and regulation with respect to PHI and Social Security numbers, Contractor will indemnify and hold the State harmless from any loss, damage, costs, expense, judgment, sanction or liability, including, but not limited to, reasonable attorneys' fees and costs, attributable to the claims of third parties that the State incurs or is subject to, to the extent resulting from a disclosure of PHI or Social Security numbers by Contractor or any subcontractor, agent or person under Contractor's control arising from a material breach of Contractor's obligations under this Section 11.

As a condition to foregoing indemnity, the State shall provide Contractor with prompt written notice of any claim for which indemnification is sought and shall cooperate in all reasonable respects with Contractor in connection with any such claim. Contractor shall be entitled to defend and control the handling of any such suit or proceeding, in its sole discretion, with counsel of its own choosing that is reasonably satisfactory to the State. Contractor may not settle a claim for which indemnification is sought under this Section without the prior written consent of the State, unless (1) the sole relief provided is the payment of monetary damages by Contractor or, to the extent that any non-monetary relief is provided, such non-monetary relief is applicable only to Contractor, (2) there is no admission of any fault or wrongdoing on the part of the State, and (3) the compromise or settlement contains a full and unconditional release (other than a condition of receipt of payment from the Contractor) of the State from liability in respect of such claim.

Nothing contained in this Contract is intended to confer upon any person (other than the parties hereto) any rights, benefits, or remedies of any kind or character whatsoever, whether in contract, statute, tort (such as negligence), or otherwise, and no person shall be deemed a third-party beneficiary under or by reason of this Contract.

- B. Drug and Alcohol Patient Abuse Records. In the performance of the services listed in this Contract, the Contractor may have access to confidential information concerning the disclosure and use of alcohol and drug abuse patient records. The Contractor understands and agrees that data, materials and information disclosed to Contractor may contain confidential and protected data, including confidential individual information concerning alcohol and drug abuse patient records. Therefore, subject to the provisions of this Section 11, the Contractor promises and assures that any such confidential data, material, and information gathered or disclosed to the Contractor for the purposes of this Contract will not be disclosed or discussed with others without the prior written consent of the State. The Contractor and the State shall comply with applicable requirements under 42 CFR Part 2 and any other applicable federal or state statutory or regulatory requirements, in each case with respect to the Contractor, to the extent applicable to the Contractor in the performance of Services. The Contractor shall report any unauthorized disclosures of these records to the FSSA HIPAA Compliance Office within five (5) business days of the date the Contractor becomes aware of the unauthorized disclosure.
- C. Confidentiality of State Information. The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. As provided in this Section 11, the Contractor covenants that such confidential and protected data, material and information gathered or disclosed to the Contractor for the purpose of this Contract ("State Confidential Information"), will not be disclosed to or discussed with third parties without the prior written consent of the State.
- D. Subject to Sections 11.E and 11.F, upon full and final payment by the State for Work Product delivered hereunder, the Contractor agrees that such Work Product, as that

prior to, any disclosure of such information made by the disclosing party, or (v) is disclosed with the written consent of the disclosing party. In satisfying its obligations under Sections 11.A and 11.D, each party shall maintain the other's Confidential Information in confidence using at least the same degree of care as it employs in maintaining in confidence its own Confidential Information, but in no event less than a reasonable degree of care.

- G. The parties acknowledge that the services to be performed by Contractor for the State under this contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to and subject to the covenants made above in this section and pursuant to 10 IAC 5-3-1(4), the Contractor, to the extent applicable to Contractor in the performance of the Services, and the State agree to comply with the provisions of IC 4-1-10. If any Social Security number(s) is/are disclosed by Contractor in material breach of this Section 11, Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in accordance with IC 4-1-11 in addition to any other claims and expenses for which it is liable under the terms of this contract subject to the limitations of liability set forth in Section 46. The Contractor shall promptly report any unauthorized disclosures by Contractor of Social Security numbers of which it becomes aware to the FSSA HIPAA Compliance Office no later than two (2) business days from the date the Contractor is aware of the unauthorized disclosure. The State hereby consents to the Contractor disclosing State Confidential Information to permitted subcontractors performing services under this Contract. Contractor agrees to require any subcontractors to applicable requirements contained in Section 11.

12. Continuity of Services.

- A. The Contractor recognizes that the service(s) to be performed under this Contract are vital to the State and must be continued without interruption and that, upon Contract early termination, a successor, either the State or another contractor, may continue them. To the extent agreed to by the parties in writing, the Contractor will:
- Furnish phase-out training, and
 - Exercise appropriate, suitable and commercially reasonable efforts and cooperation to effect an orderly and efficient transition to a successor.
- B. At Contract early termination and upon mutual agreement of the parties, the Contractor shall, at the hourly rates set forth herein, allow as many personnel as practicable to remain on the job to perform the services as set forth in this Section in order to help the successor maintain the continuity and consistency of the services required by this Contract. At Contract early termination, the Contractor also shall allow the State to seek to employ any of Contractor's employees who are providing services to the State under this Contract at the time of such early termination and conduct interviews with these employees on the States' premises. If selected employees are agreeable to the change, the Contractor shall allow such employment by the State at such early termination.
- C. The Contractor shall be reimbursed for all reasonable phase-out fees and expenses (i.e., costs incurred within the agreed period after contract early termination that result from phase-out operations).

13. Debarment and Suspension.

- A. The Contractor warrants that by entering into this Contract neither it nor its principals providing Services hereunder nor any of its subcontractors providing Services hereunder are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor providing Services hereunder.
- B. The Contractor warrants that it has verified the present state and federal suspension and debarment status with respect to entering into this Contract as provided above for all subcontractors receiving funds under this Contract and shall be responsible for any recoupment, penalties or costs related to this Contract that might arise from use of a subcontractor hereunder whose suspension or debarment is associated with this Contract. The Contractor shall promptly notify the State if it becomes aware that any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

14. Default by State.

If the State, sixty (60) days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Contractor may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination.

15. Disputes.

- A. Should any disputes arise with respect to this Contract, the Contractor and the State agree to act immediately to resolve such disputes in a timely manner in accordance with this Section 15. Time is of the essence in the resolution of disputes.
- B. Except with respect to halting or terminating Services for the non-payment of undisputed invoices pursuant to Section 10, the Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Except with respect to halting or terminating Services for the non-payment of undisputed invoices pursuant to Section 10, should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work in accordance with the preceding sentence, without delay, any damages incurred by the State subject to Section 47 below, or the Contractor as a result of such failure to proceed shall be borne by the Contractor.
- C. If a party to the contract is not reasonably satisfied with the progress toward resolving a dispute, the party must notify in writing the other party of this dissatisfaction. Upon written notice, the parties have ten (10) working days, unless the parties mutually agree to extend this period, following the notification to resolve the dispute. If the dispute is not resolved within ten (10) working days, a dissatisfied party will submit the dispute in writing according to the following procedure:

1. The parties agree to resolve such matters through submission in writing of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Contractor and the State within ten (10) working days after presentation of such dispute for action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner or one of the parties concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration or mediation for a determination. If a party is not satisfied with the Commissioner's decision, the dissatisfied party, may submit the dispute to an Indiana court of competent jurisdiction. In such event, each party hereby irrevocably waives, to the fullest extent permitted by law, all rights to a trial by jury.
2. The State may withhold payments on items disputed in good faith pending resolution of the dispute, provided, however, that any such withholding shall be without prejudice to any rights or remedies available to the Contractor hereunder, at law or in equity.

16. Drug-Free Workplace Certification.

The Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that an employee of the Contractor performing Services hereunder has been convicted of a criminal drug violation occurring in the workplace. False warranty or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total contract amount set forth in this Contract is in excess of \$25,000.00, the Contractor hereby further agrees that this Contract is expressly subject to the terms, conditions, and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. No award of a contract shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000.00, shall be valid, unless and until this certification has been fully executed by the Contractor and made a part of the contract or agreement as part of the contract documents.

The Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees performing Services hereunder, a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance

programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

- C. Notifying all employees performing Services hereunder in the statement required by subparagraph (A) above that as a condition to performing Services hereunder, the employee will (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee performing Services hereunder under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee performing Services hereunder who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

17. Employment Eligibility Verification.

The Contractor affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.

The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.

The Contractor shall require his/her/its subcontractors, who perform work under this contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The State may terminate this agreement for default of this provision only if the Contractor knowingly employs or contracts with an unauthorized alien to perform Services hereunder in breach of this provision and fails to cure such breach of this provision no later than thirty (30) days after being notified by the State.

18. Employment Option – Deleted by Agreement of the Parties**19. Force Majeure.**

In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies including fire, epidemic or other casualty, act of God, strike or labor dispute, war or other violence, or any law, order, or requirement of any governmental agency or authority and not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall promptly give notice to the other party and shall do everything reasonably possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

20. Funding Cancellation.

When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Director of SBA that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

21. Governing Laws.

This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.

22. Indemnification.

The Contractor agrees to indemnify, defend, and hold harmless the State, its officials, and employees from all claims and suits including reasonable court costs, attorney's fees, and other expenses, in each case solely for third party claims arising from bodily injury, death or damage to real or tangible personal property to the extent directly and proximately caused by the gross negligence or willful misconduct of the Contractor in the performance of this Contract; provided, however, that if there also is fault on the part of the State or any individual, entity or governmental body indemnified hereunder or any individual, entity or governmental body acting on the State's behalf, the foregoing indemnification under this Section 21 shall be on a comparative fault basis. The State shall **not** provide such indemnification to the Contractor. As a condition to the foregoing indemnity obligation, the State shall provide the Contractor with prompt notice of any claim for which indemnification may be sought hereunder and shall cooperate with the indemnifying party in connection with any such claim. The Contractor shall be entitled to control the handling of any such claim and to defend or settle any such claim, in its sole discretion, with counsel of its own choosing; provided, however, that, in the case of any such settlement, the Contractor shall obtain written release of all liability of the State, in form and substance reasonably acceptable to the State.

23. Independent Contractor.

Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The

employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party.

The Contractor shall be responsible for providing all necessary unemployment and workers' compensation insurance for the Contractor's employees.

24. Information Technology Enterprise Architecture Requirements.

If the Contractor provides any information technology related products or services to the State, the Contractor shall comply with all IOT standards, policies and guidelines in effect as of the effective date of this Agreement, which are online at <http://iot.in.gov/architecture/> ("Architecture Requirements"). If the Architecture Requirements are modified by the State after execution of this Agreement and the such modifications have an adverse impact on the Contractor (e.g., cost, timeline, resources), the parties shall mutually agree to such modifications in writing. If the parties are unable to reach agreement on such modifications, either party may terminate this Agreement in accordance with Section 41. The Contractor specifically agrees that all hardware, software and services provided by Contractor or purchased from Contractor by the State shall be compatible with the principles and goals contained in the electronic and information technology accessibility standards adopted under Section 508 of the Federal Rehabilitation Act of 1973 (29 U.S.C. 794d) and IC 4-13.1-3. Any deviation from the Architecture Requirements must be approved in writing by IOT in advance. The State may terminate this Contract for default if the Contractor fails to cure a breach of this provision within the time provided in Section 42, Termination for Default.

25. Insurance.

1. The Contractor shall secure and keep in force during the term of this Contract, the following insurance coverages, covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from Contractor's performance under this Contract, subject to the terms and conditions of the policies:
 1. Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with a minimum liability limit of \$1,000,000 per occurrence unless additional coverage is required by the State. The State is to be included as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Contract.
 2. Professional errors and omissions, with minimum liability limits of \$5,000,000 per claim and in the aggregate.
 3. Automobile liability with minimum combined single limit of liability of \$1,000,000 per occurrence. The State is to be included as an additional insured on a primary, non-contributory basis.
 4. Umbrella/excess liability with a minimum limit of liability of \$5,000,000 per occurrence.
 5. The Contractor shall provide proof of such insurance coverage by tendering to the undersigned State representative a certificate of insurance prior to the commencement of this Contract and proof of Workers compensation coverage meeting all statutory

requirements of IC 22-3-2. In addition, an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana.

- A. The Contractor's insurance coverage must meet the following additional requirements:
1. The insurer must have a certificate of authority issued by the Indiana Department of Insurance.
 2. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
 3. The State will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.
 4. The certificates of insurance required in this Contract shall include a provision that the policy may not be canceled or not renewed without the insurers endeavoring to provide thirty (30) days' prior written notice to the undersigned State representative.

Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to the State before the commencement of this Contract.

26. Key Person(s).

- A. If both parties have designated that certain individual(s) are essential to the Services offered, the parties agree that should such individual(s) be removed by the Contractor from performance of the Services (for reasons other than death, disability or termination) and reassigned to another project, without prior approval of the State, the State shall have the right to terminate for convenience this Contract upon thirty (30) days prior written notice.
- B. In the event that an individual designated as "key" is removed or leaves the project, subject to Clause A. above, the Contractor will present to the State, within thirty (30) days, the name and qualifications of another individual who may become a key person under the terms of this Contract subject to the approval of the State.
- C. In the event that the Contractor is an individual, that individual shall be considered a key person and, as such, essential to this Contract. Substitution of another for the Contractor shall not be permitted without express written consent of the State.
- D. Nothing in sections A and B, above shall be construed to prevent the Contractor from using the services of others to perform tasks ancillary to those tasks which directly require the expertise of the key person. Examples of such ancillary tasks include secretarial, clerical, and common labor duties. The Contractor shall, at all times, remain responsible for the performance of all necessary tasks, whether performed by a key person or others.

Key persons to this Contract are:
 Rachel Frey
 Jim Perez

27. Licensing Standards.

The Contractor, its employees and subcontractors performing Services hereunder shall comply with all applicable governmental licensing standards, certification standards, accrediting standards governing services to be provided by the Contractor pursuant to this Contract. The State will not pay the Contractor for any services performed when the Contractor, its employees or subcontractors performing Services hereunder are knowingly or purposefully not in compliance with such applicable standards. If any license, certification or accreditation expires or is revoked, the Contractor shall notify the State promptly and the State, at its option, may terminate this Contract

28. Merger and Modification.

This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, except by written agreement signed by all necessary parties.

29. Minority and Women's Business Enterprises Compliance.

The Contractor agrees to comply fully with the provisions of 25 IAC 5 and the Subcontractor Commitment submitted to the State. No changes may be made to the commitment without the written approval of the Minority and Women's Enterprises Division of IDOA. The Contractor's Subcontractor Commitment will become the MWBE Participation Plan upon execution of this Contract. The Subcontractor Participation Plan will be kept on file at the MWBE offices.

The following MBEs and WBEs listed on the Minority and Women's Business Enterprises Division directory of certified firms will be participating in this Contract.

MBE – TCC Software Solutions – 2.77%

MBE – RCR Technology Corp. – 6.25%

WBE – Indecon Solutions – 4.44%

WBE – Brillient, LLC – 4.72%

The Contractor agrees to submit a copy of the agreement entered into between the Contractor and each MWBE subcontractor where the State considered the selection of the MWBE by the Contractor when issuing the procurement award. The copy of each subcontractor agreement must be submitted to the MWBE Division in IDOA within thirty (30) days of the execution of the contract between the Contractor and the subcontractor. Failure to provide a copy of the subcontractor agreements may be considered a violation of this provision and of 25 IAC 5. The Contractor must obtain the approval of MWBE Division before changing any MWBE Participation Plan submitted in connection with this Contract.

In the event of a violation of this provision or of 25 IAC 5, the State shall notify the Contractor of the violations and will seek a course of action to correct them. The selected course of action may include the recommendation for the imposition of sanctions for material breach of contract pursuant to 25 IAC 5-7-8. In the event that it is determined that a violation of this rule has occurred, the State may elect to immediately employ one (1) or more of the sanctions found in 25 IAC 5-7-8(b).

If the Contractor is not excluded from future procurements, the actions or inactions of the Contractor with regard to the above may be taken into account in all phases and scoring in future procurements.

30. Nondiscrimination.

This covenant is enacted pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act. Breach of this covenant may be regarded as a material breach of this Contract, but nothing in this covenant shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.

Pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee or applicant's: race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Furthermore, Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services.

The Contractor understands that the State is a recipient of federal funds, and therefore, where applicable, Contractor and any subcontractors agree to comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246.

31. Notice to Parties.

Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following addresses, unless otherwise specifically advised.

A. Notices to the State shall be sent to:

Adrienne Shields
Indiana Family & Social Services Administration
Division of Family Resources
402 W. Washington Street, Rm. 392
Indianapolis, IN 46204

B. Notices to the Contractor shall be sent to:

Todd J. Higgins, Principal
Deloitte Consulting, LLP
Chase Tower
111 Monument Circle, Suite 2000
Indianapolis, IN 46204-5108

32. Order of Precedence; Incorporation by Reference.

Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract, (2) Contractor's response to RFP# 12-113, and (3) RFP# 12-113. All attachments, and all documents referred to in this paragraph are hereby incorporated fully by reference.

33. Ownership of Documents and Materials.

All documents, records, programs, data, film, tape, articles, memoranda, and other materials that are not Contractor Information but which are (1) specifically developed for and (2) delivered to the State under this Contract ("Work Product") shall be considered "work for hire" and the Contractor transfers any ownership claim to the State and all such Work Product will be the property of the State. Use of this Work Product, other than in Section 11 above by the Contractor, without the prior written consent of the State, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to the Work Product while the such Work Product are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. The Contractor shall provide the State full, prompt, and unrestricted access to the Work Product during the term of this Contract.

34. Payments.

All payments shall be made in arrears in conformance with State fiscal policies and procedures and, as required by IC 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the Contractor in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by IC 4-13-2-20.

Claims shall be submitted for reimbursement of costs incurred. Unless otherwise agreed to by the parties, reimbursement shall be based on deliverables accepted by the State, not on a care plan budget or other merely anticipated services. Claims shall be submitted to the State within sixty (60) calendar days following the acceptance of a deliverable. The State has the discretion, and reserves the right, to **not pay** any claims submitted later than sixty (60) calendar days following the acceptance of a deliverable. All final claims and reports must be submitted to the State within sixty (60) calendar days after the expiration or termination of this agreement. Payment for claims submitted after that time may be denied but only if a delay prevents the State from claiming funds for the payment of the Contractor's invoices.

Claims must be submitted with the accompanying supportive claim form generated by the State. Claims submitted without supportive documentation will be returned to the Contractor and not processed for payment.

35. Penalties/Interest/Attorney's Fees.

The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, IC 5-17-5, IC 34-54-8, and IC 34-13-1.

Notwithstanding the provisions contained in IC 5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

36. Progress Reports.

The Contractor shall submit progress reports to the State upon request. The report shall be oral, unless the State, upon receipt of the oral report, should deem it necessary to have it in written form. The progress reports shall serve the purpose of assuring the State that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date.

37. Renewal Option - Deleted by Agreement of the Parties.**38. Severability.**

The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract but such invalid section, subsection, clause or provision shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permissible the intent of the parties set forth herein.

39. Substantial Performance – Deleted by Agreement of the Parties**40. Taxes.**

The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the Contractor as a result of this Contract.

41. Termination for Convenience.

This Contract may be terminated, in whole or in part, by the State, which shall include and is not limited to the Indiana Department of Administration and the State Budget Agency whenever, for any reason except default, if, the State determines that such termination is in its best interest. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Contractor shall be compensated for services properly rendered prior to the date of notification of termination which shall include compensation for completed services and deliverables and compensation on a pro rata basis of incomplete services and deliverables so long as the Contractor provides such incomplete services and deliverables to the State. The parties will reach a good faith mutual agreement on the pro rata value of such incomplete services and deliverables provided to the State, subject to a cap of \$3,000,000 for software deliverables and \$2,000,000 for document deliverables. If payment for a completed deliverable is conditioned on acceptance of such deliverable by the State, and the State has not yet accepted such deliverable prior to the date of notification of termination, the State shall expedite the acceptance process and make payment for such deliverable upon acceptance. The Contractor will also be paid for all applicable expenses and services that the parties mutually agree to perform during the thirty (30) day notification period leading up to the effective date of termination which services will be based on the agreed upon project plan. The Contractor is not required to perform any services during the thirty (30) day notification period unless the parties mutually agree to such services. The State will not be liable for services performed after the effective date of termination. The Contractor shall be compensated for services herein provided but in no case shall total payment made to the Contractor exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date.

42. Termination for Default.

A. With the provision of thirty (30) days written notice to the Contractor, the State may terminate this Contract in whole or in part if the Contractor fails to correct or cure any material breach of this Contract; the time to correct or cure the breach may be extended beyond thirty (30) days if the State determines progress is being made and the extension is agreed to by the parties;

B. If the State terminates this Contract under this Section 42, it may acquire, under the terms and in the manner the State considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any damages incurred subject to the limitations set forth in Section 47 below. However, the Contractor shall continue the work not terminated subject to the rights of the parties as set forth in Sections 10, 14 and 15 above.

C. The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.

43. Travel.

No expenses for travel will be reimbursed unless specifically permitted under the scope of services or consideration provisions. Expenditures made by the Contractor for travel will be reimbursed at the current rate paid by the State and in accordance with the State Travel Policies and Procedures as specified in the current Financial Management Circular. Out-of-state travel requests must be reviewed by the State for availability of funds and for appropriateness per Circular guidelines.

44. Waiver of Rights.

No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right.

45. Work Standards.

This is a services agreement. The Contractor warrants that it will perform its responsibilities in good faith and in a professional manner. EXCEPT WITH REGARD TO THE WARRANTY SET FORTH IN THIS SECTION 45 (WARRANTY TO PERFORM IN GOOD FAITH AND IN A PROFESSIONAL MANNER), THE CONTRACTOR DISCLAIMS ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. If the State becomes dissatisfied with the work product of or the working relationship with those Contractor personnel or subcontractors assigned to work on this Contract, the State may demand in writing the replacement of any or all such individuals, which shall include the basis for the demand, and the Contractor shall grant such demand.

46. State Boilerplate Affirmation Clause.

The State swears or affirms under the penalties of perjury that it has not altered, modified or changed the FSSA IDOA Approved Boilerplate contract clauses (as defined in the 2011 OAG/IDOA *Professional Services Contract Manual*) in any way except for the following clauses which are named below:

- 4. Access to Records – Modified
- 5. Assignment; Successors – Modified
- 9. Compliance with Laws – Modified
- 10. Condition of Payment – Modified
- 13. Debarment and Suspension – Modified
- 15. Disputes – Modified
- 16. Drug-Free Workplace Certification – Modified
- 18. Employee Option – Deleted by Agreement of the Parties
- 19. Force Majeure – Modified
- 22. Indemnification – Modified
- 24. Information Technology Enterprise Architecture Requirements – Modified
- 25. Insurance – Modified
- 26. Key Persons – Modified
- 27. Licensing Standards – Modified
- 33. Ownership of Documents and Materials – Modified
- 38. Severability – Modified
- 39. Substantial Performance – Deleted by Agreement of the Parties
- 42. Termination for Default – Modified
- 44. Waiver of Rights – Modified
- 45. Work Standards – Modified

47. Limitation of Liability

Each party agrees that the other party, its subcontractors and its personnel shall not be liable for any actions, damages, claims, liabilities, costs, expenses, or losses, in any way arising out of or relating to the Services performed hereunder for an aggregate amount in excess of the fees paid by the State to the Contractor during the preceding twelve (12) month period plus \$500,000, except to the extent finally judicially determined to have resulted primarily from the bad faith or intentional misconduct of such party or its subcontractors. In no event shall either party, its subcontractors or its personnel be liable for consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, or losses (including, without limitation, lost profits and opportunity costs) nor shall they be liable for any claim or demand against the other party by any third party (other than third party claims for which indemnification is available hereunder). The provisions of this paragraph shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss, whether in contract, statute, tort (including, without limitation, negligence), or otherwise.

48. Infringement of Patents and Copyrights

- A. Contractor will defend the State against a third party claim that Work Product supplied hereunder infringes a U.S. patent or copyright. Contractor will pay resulting costs, damages and reasonable attorney's fees finally awarded provided that:
 - 1. The State promptly notified Contractor in writing of the claim; and
 - 2. Contractor has sole control of the defense and all related settlement negotiations.
- B. The State shall have the right to participate in the defense where issues of State law or policy are involved. Contractor's obligation under this Section is conditioned on the State's agreement that if the Work Product, or the operation thereof is likely to become, the subject of a third party claim, the State will permit Contractor, at its option and expense, either to

procure for the State the right to continue using such Work Product or to replace or modify the same so that they become non-infringing; and if neither of the foregoing alternatives is available on terms which are reasonable in Contractor's judgment, the State will return the Work Product on written request by Contractor.

- C. The Contractor has no liability for any claim based upon the following:
1. The combination, operation, or use of Work Product supplied hereunder with any program or other material other than or in addition to programming supplied by the Contractor;
 2. State modification of Work Product other than that directed or requested by Contractor or pursuant to this Contract, or Work Product's use in other than its specified operating environment.
 3. Use by the State of a superseded or altered release or version of Work Product modified outside of the scope of this Contract;
 4. Use of the Work Product by the State other than in accordance with its published specifications, if any; or
 5. The infringement resulted from implementing technical specification(s) provided by the State.
- D. The foregoing states the entire obligation of Contractor with respect to infringement of patents and copyrights

49. Duties of the State

The State shall cooperate with the Contractor in the performance of the Services, including, without limitation providing the Contractor with reasonable facilities and timely access to data, information and personnel of the State. The State shall be responsible for the performance of its employees and agents and for the accuracy and completeness of all data and information provided to the Contractor hereunder. The parties acknowledge and agree that the Contractor's performance is dependent upon the timely and effective satisfaction of the State's responsibilities hereunder and timely decisions and approvals of the State in connection with the Services. The Contractor shall be entitled to rely on all decisions and approvals of the State in the performance of the Contract.

50. Federal Nutrition Services Required Federal Provisions.

The Contractor must comply with the following provisions;

1. Executive Order 11246, entitled "Equal Employment Opportunity". As amended by Executive Order 11375, and as supplemented by the department of Labor Regulations (41 CFR Part 60): The Executive Order prohibits federal contractors and federally-assisted construction contractors and subcontractors who do over \$10,000 in Government business in one year from discriminating in the employment decisions on the basis of race, color, religion, sex, or national origin. The Executive Order also requires Government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.
2. The Clean Air Act, Section 306:
 - a. No Federal agency may enter into any contract with any person who is convicted of any offense under section 113(c) for the procurement of goods, materials and

services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected. For convictions arising under section 113(c)(2), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(2). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person.

- b. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a).
- c. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after enactment of the Clean Air Amendments of 1970 cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purposes and policy of this Act in such contracting or assistance provisions, as the President determines necessary to carry out such requirement.
- d. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.
- e. The President shall annually report to the Congress on measures taken toward implementing the purpose and intent of this section, including but not limited to the progress and problems associated with implementation of this section. [42 U.S.C 7606]

3. The Clean Water Act:

- a. No Federal agency may enter into any contract with any person who has been convicted of any offense under Section 309(c) of this Act for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.
- b. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.
- c. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than 180 days after the enactment of this Act, cause to be issued an order:
 - (1) Requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of

grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and

- (2) Setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.
 - d. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.
 - e. The President shall annually report to the congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.
 - f. (1) No certification by a contractor, and no contract clause may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.
 - (2) In paragraph (1), the term "commercial item" has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).
4. The Anti-Lobbying Act: This Act prohibits the recipients of federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the federal government in connection with a specific contract, grant, or loan. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82.105 and 82.110, the applicant certifies that:
- a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement;
 - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions;
 - c. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

5. Americans with Disabilities Act: This Act (28 CFR Part 35, Title II, Subtitle A) prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments, except public transportation services.
6. Drug Free Workplace Statement: The Federal government implemented the Drug Free Workplace Act of 1988 in an attempt to address the problems of drug abuse on the job. It is a fact that employees who use drugs have less productivity, a lower quality of work, and a higher absenteeism, and are more likely to misappropriate funds or services. From this perspective, the drug abuser may endanger other employees, the public at large, or themselves. Damage to property, whether owned by this entity or not, could result from drug abused on the job. All these actions might undermine public confidence in the services this entity provides. Therefore, in order to remain a responsible source for government contracts, the following guidelines have been adopted:
 - a. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the work place.
 - b. Violators may be terminated or requested to seek counseling from an approved rehabilitation service.
 - c. Employees must notify their employer of any conviction of a criminal drug statue no later than five days after such conviction.
 - d. Although alcohol is not a controlled substance, it is nonetheless a drug. It is the policy of the Indiana Department of Health WIC Program that abuse of this drug will also not be tolerated in the workplace.
 - e. Contractors of federal agencies are required to certify that they will provide drug-free workplaces for their employees.
7. Debarment, suspension, and other responsibility matters: As required by Executive Order 12549. Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110.
 - a. The applicant certifies that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - (2) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract 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;

- (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and
 - (4) Have not within a three-year period preceding this application had one or more public transactions (federal, state, or local) terminated for cause of default.
- b. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.
8. The federal government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for federal government purposes, the copyright in any work developed under a grant, sub-grant, or contract under a grant or sub-grant or any rights of copyright to which contractor purchases ownership.

51. Identification of Efficiencies.

To the extent that Contractor, has entered into other contracts with any other state, exchange, or the Federal Government, relating to the design, development, implementation, or operation of a health benefit exchange as described in the Section 1311 of the ACA to which the requirements of 45 C.F.R. 95 and 45 C.F.R. 92 apply, Contractor will proactively identify for, review for, discuss with, and submit recommendations to the State regarding reuse of work from these other contracts or other shared efforts with these third-parties that could lead to efficiencies in accomplishing the specific requirements of or the objective of this Contract.

THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the Contractor, or that he/she is the properly authorized representative, agent, member or officer of the Contractor, that he/she has not, nor has any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract.

In Witness Whereof, Contractor and the State have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below hereby agree to the terms thereof.

Contractor: Deloitte Consulting LLP

Witness (If applicable):

By: Todd J. Higgins
Printed Name: TODD J. HIGGINS
Title: PRINCIPAL
Date: 12-12-2012

Attested By: _____

**Family and Social Services Administration
Division of Family Resources**

Indiana Office of Technology

By: Adrienne M. Shields
Adrienne M. Shields, Deputy Director
Date: 12/13/12

By: Brian Arrowood
Brian Arrowood, Chief Information Officer
Date: 12-14-12

Department of Administration

State Budget Agency

By: Robert D. Wynkoop (for)
Robert D. Wynkoop, Commissioner
Date: 12/18/12

By: Adam M. Horst (for)
Adam M. Horst, Director
Date: 12/18/12

**APPROVED as to Form and Legality:
Office of the Attorney General**

By: Gregory F. Zoeller (for)
Gregory F. Zoeller, Attorney General
Date: 1/14/13

Handwritten text, possibly a signature or name.

Handwritten text, possibly a date or number.

PHI Protection Requirements and Procedures

In the performance of some of the Services, the Contractor may have access to the State's PHI. Exhibit D defines requirements and procedures when the State is disclosing PHI to the Contractor, whether it be in collecting, storing, using, transferring, retaining or destroying PHI in the context of the performance of the Services ("PHI Protection Requirements and Procedures"). For purposes of this Exhibit, the reference to Contractor includes the Contractor's subcontractors.

1. In the performance of the Services, the State has the responsibility to limit the amount of data provided to the Contractor, using secure channels or ways of sharing data with the Contractor, and protecting the data that resides within the State's operating and information technology environments. If there is a discrepancy between the PHI Protection Requirements and Procedures outlined in Exhibit D and the State's management direction/decision during the course of this engagement, it is State's responsibility to report it to the Contractor's Engagement Director immediately.
2. The Contractor will only be required to access and handle the State's PHI via a Virtual Private Network ("VPN") provided by the State to which the State authorizes access by the Contractor's personnel, with the Contractor's approval, to the extent required for the Contractor to perform Services in the Contractor's facilities or limited Services on an emergency basis or for nightly batch process monitoring outside business hours.
3. All desktops used by the Contractor during the performance of the Services will have full-disk encryption software installed and functioning at all times and will have secure communications software installed (e.g., secured email, secured FTP, etc.). Such desktops will have no USB or external CD/DVD drives.
4. The State is responsible for the implementation and ongoing operation of adequate security controls, including ongoing security monitoring and vulnerability assessment, in the networks and environments used by the Contractor during the performance of the Services.
5. All project related documentation and PHI data transmitted to the Contractor will be stored on the test environment.
6. The State is responsible for secure data transfer to the Contractor. The State shall not communicate or provide PHI in any unsecured manner (such as unsecured email, unsecured FTP, etc.) to the Contractor. Prior to the State's transmittal of trouble tickets for remediation to the Contractor, the State shall mask PHI data, where feasible. The State shall limit the amount of PHI data transmitted to the Contractor to the minimum amount needed to troubleshoot the ticket and remediate the issue. The State shall notify the Contractor upon the transmittal of any PHI, and the State shall acknowledge the Contractor's notification when such PHI is returned or deleted. The State shall not bring any PHI into the Contractor's facility. The State shall be solely responsible for securing any PHI accessed by it from, or brought into, the Contractor's facility and destroying PHI appropriately.
7. The State shall only share hard copies of PHI with the Contractor when there are no other means to provide the necessary data. When hard copies of PHI are disclosed by the

State to the Contractor, they will be provided only to the Contractor's Engagement Director together with the State's written notice that such hard copy materials contain PHI.

8. The State will promptly notify the Contractor if any third parties are allowed access to the PHI during the performance of the Services. The State is solely responsible for the performance of all third parties with respect to the protection of PHI unless such third party is a subcontractor to the Contractor.

PROFESSIONAL SERVICES CONTRACT

Contract #0000000000000000000040795

This Contract ("Contract"), entered into by and between the Indiana Department of Child Services, Child Support Bureau (the "State", "CSB", "DCS", or "DCS/CSB") and Deloitte Consulting LLP ("Contractor"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

Definitions:

- a. **Data** means all information, whether in written, or electronic form, created by or in any way originating with the State, and all information that is the output of any computer processing, or other electronic manipulation, of any information that was created by or that in any way originated with the State, in the course of using and configuring the services.
- b. **Data Breach** means any actual or reasonably suspected unauthorized decryption and access to Encrypted Data or acquisition of unencrypted Encrypted Data.
- c. **Encrypted Data** means Data that is required to be encrypted under the Contract and Statement of Work.
- d. **Indiana Office of Technology** means the agency established by Ind. Code § 4-13-1-2-1.
- e. **Information Security Framework** means the State of Indiana's written policy and standards document governing matters affecting security and available at <http://www.in.gov/iot/2339.htm>
- f. **Optional Contract Extension** means the additional time periods for which the Contract is renewed by the State.
- g. **Security Incident** means any actual or reasonably suspected unauthorized access to the INvest Child Support Automated System (as defined in Section 1 below), regardless of whether Contractor is aware of the Data Breach. A Security Incident may or may not become a Data Breach.
- h. **Service(s)** means that which is provided to the State by the Contractor pursuant to this Contract and the Contractor's obligations under the Contract
- i. **Service Level Agreement** means a written agreement between both the State and the Contractor that is subject to the terms and conditions of this Contract. Service Level Agreements should include: (1) the technical service level performance promises (i.e. metrics for performance and intervals for measure); (2) description of service quality; (3) identification of roles and responsibilities; (4) remedies, such as credits; and (5) an explanation of how remedies or credits are calculated and issued.
- j. **Statement of Work** means the written agreement between the State and the Contractor attached to and incorporated into this Contract.

1. Duties of Contractor.

The Contractor shall provide the following services relative to this Contract: Design, development, and implementation of the INvest Child Support Automated System set forth in the Scope of Work (Exhibit 1) which defines the Services under Contract.

The Contractor agrees that no services or duties owed by the Contractor under this Contract will be performed or provided by any person or entity other than the Contractor, except as contained in written subcontracts or other legally binding agreements. No subcontract into which the Contractor enters with respect to performance under this Contract shall in any way relieve the Contractor of any responsibility for performance of duties under this Contract.

The Contractor shall contract with Amazon Web Services, Inc. ("AWS"), an independent commercial public cloud infrastructure provider, as a vendor to provide the AWS cloud-computing platform, services and tools, which shall be subject to the additional terms set forth in Exhibit 4 hereto.

2. Consideration.

The Contractor will be paid at the rates provided in Exhibit 2, attached hereto and fully incorporated herein for performing the duties set forth above. Total remuneration under this Contract shall not exceed \$42,352,200.00

3. Term.

This Contract shall be effective for a period of three (3) years with the option of two (2) one-year renewals for a total of five (5) years at the State's option. It shall commence on May 4, 2020, and shall remain in effect through May 3, 2023.

4. Access to Records. [Modified]

The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract, and for three (3) years from the date of final payment under this Contract or as long as the Contractor retains the records, whichever is the greater duration period, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested.

5. Assignment; Successors; and Subcontracting. [Modified]

- A. The Contractor binds its successors and assignees to all the terms and conditions of this Contract. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the State, provided that the Contractor gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.
- B. The Contractor shall not assign or subcontract the whole or any part of this Contract without the State's prior written consent. Additionally, the Contractor shall provide prompt written notice to the State of any change in the Contractor's legal name or legal status so that the changes may be documented and payments to the successor entity may be made.
- C. The Contractor shall monitor the performance of all subcontractors and shall remain responsible to the State for the performance of any subcontractor. The Contractor agrees to enter into written agreements with all subcontractors and to provide copies of all subcontracting agreements to the State upon execution. It shall be the responsibility of the Contractor to ensure all subcontractors have the required background checks completed as set forth in Section 52 [Criminal and Background Checks] below. The Contractor further agrees to notify the State of a breach of these provisions by a

subcontractor and to discontinue any agreement with the specified subcontractor in the event of such a breach.

6. Assignment of Antitrust Claims.

As part of the consideration for the award of this Contract, the Contractor assigns to the State all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

7. Audits and Monitoring. [Modified]

- A. The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC § 5-11-1, *et seq.*, and audit guidelines specified by the State.
- B. The State considers the Contractor to be a "Contractor" under 2 C.F.R. 200.330 for purposes of this Contract. However, if it is determined that the Contractor is a "subrecipient" and if required by applicable provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements), Contractor shall arrange for a financial and compliance audit of funds provided by the State pursuant to this Contract, which complies with 2 C.F.R. 200.500 *et seq.* Such an audit shall be of the actual entity, or distinct portion thereof that is the Contractor, and not of a parent, member, or subsidiary corporation of the Contractor, except to the extent required by applicable law.

The Contractor and its subcontractors shall permit all examinations and shall generate and maintain all documentation necessary to comply with all audit requirements of this Contract.

- C. In addition to an independent audit completed in accordance with paragraph A or B of this Section, the State may, in its discretion, conduct a separate audit(s) of funds provided pursuant to this Contract and/or any other necessary on-site monitoring reviews of the Contractor, for the purpose of: (i) outcome tracking, (including, but not limited to, outcome tracking described in Section 1 [Duties of Contractor] of this Contract); (ii) quality review of the services provided by the Contractor pursuant to this Contract; and/or (iii) conducting any other program or service audits of the Contractor.
 - (1) The Contractor shall, upon written demand by the State, be required to repay to the State all sums paid by the State to the Contractor, for which adequate fiscal and/or service delivery documentation is not in existence for any time period audited. If an audit of the Contractor results in a verified audit exception, the State shall have the right to set off such amount against current or future allowable claims, demand cash repayment, or withhold payment of current claims in a like amount pending resolution between the parties of any disputed amount.
 - (2) The Contractor agrees that the State has the right to make recommendations and findings in connection with any financial monitoring or audit of the Contractor's operations, and the Contractor agrees to the process set forth in paragraph (5) below.
 - (3) The Contractor will provide to the State, upon request, a copy of any document or report prepared and maintained by the Contractor relative to costs incurred in providing the services described in this Contract (including its exhibits/attachments).
 - (4) The parties agree that any authorized employee or representative of the State, the state of Indiana or the United States (hereinafter referred to as "governmental agent") shall have the right to enter the premises of the Contractor or any

subcontractor of the Contractor (excluding AWS or other cloud-computing platform provider, as applicable) at which Services are performed herein and inspect or audit any records or property agreements maintained by the Contractor or its subcontractors in connection with this Contract with an advance notice of two (2) business days. The Contractor and its subcontractors shall provide photocopies and make all books, records, and documents that relate to their activities under this Contract available for inspection, review, and audit when requested by a governmental agent. The Contractor shall provide photocopies when requested and ensure the cooperation of its employees, officers, board members, and subcontractors in any review, audit, or inspection conducted by a governmental agent.

(5) Following any State monitoring visit to the Contractor, the State may provide a written report to the Contractor. If the State chooses to provide a written report following a State monitoring visit to the Contractor, the State shall provide such report within a reasonable period of time, as determined by the State, of such monitoring visit. The State's report may contain observations, evaluations, suggestions and/or specific directions for corrective action by the Contractor. In the event that specific corrective action is required in order to cure a Contractor breach of this Contract, the Contractor will have sixty (60) days from the receipt of the directions to comply, or to otherwise cure the breach, unless a different time period for correction is specified by State. A failure of the Contractor to comply with the State's specific directions or to otherwise cure the breach will be treated as a breach of this Contract. In the case of a dispute, the State and the Contractor will meet at their earliest convenience to resolve the issue in question.

D. In the event the Contractor is performing services under this Contract that require the Contractor, employee, and/or subcontractor to maintain any credentials or certification, the State may, in its discretion, require an audit be completed either by the State or the applicable credentialing or certifying organization.

E. As required pursuant to IC §5-11-1-9, the Contractor shall timely file an "Entity Annual Report" (Form E-1) with the State and the Indiana State Board of Accounts.

8. Authority to Bind Contractor.

The signatory for the Contractor represents that he/she has been duly authorized to execute this Contract on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Contractor when his/her signature is affixed, and accepted by the State.

9. Changes in Work. [Modified]

The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the State. The Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract

10. Compliance with Laws. [Modified]

A. The Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract require formal modification.

- B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6, *et seq.*, IC § 4-2-7, *et seq.*, and the regulations promulgated thereunder. **If the Contractor has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Contract.** If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC § 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.
- C. Before this Contract may be moved through the State signature process, it must pass review by the Department of Workforce Development ("DWD") and the Department of Revenue ("DOR"). The Contractor acknowledges that this Contract cannot proceed while any DOR or DWD "holds" exist. Thus, if the Contractor has unpaid unemployment insurance or unpaid taxes to the State, this Contract will be held until these issues are resolved.
- D. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The Contractor agrees that any payments currently due to the State of Indiana may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.
- E. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Contractor agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.
- F. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Indiana Department of Administration ("IDOA") following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest, except as permitted by IC § 5-17-5.
- G. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.
- H. The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

- I. As required by IC § 5-22-3-7:
 - (1) The Contractor and any principals of the Contractor certify that:
 - (A) The Contractor, except for de minimis and nonsystematic violations, has not violated the terms of:
 - (i) IC § 24-4.7 [Telephone Solicitation of Consumers];
 - (ii) IC § 24-5-12 [Telephone Solicitations]; or
 - (iii) IC § 24-5-14 [Regulation of Automatic Dialing Machines];
 in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and .
 - (B) the Contractor will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC § 24-4.7 is preempted by federal law.
 - (2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor, except for de minimis and nonsystematic violations,
 - (A) has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and
 - (B) will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC § 24-4.7 is preempted by federal law.

11. Condition of Payment. [Modified]

All services provided by the Contractor, or its subcontractor(s), under this Contract must be performed to the State's reasonable satisfaction, as determined by the undersigned State representative as to whether Contractor, in performing them, did so in accordance with all applicable federal, state, local laws, ordinances, rules and regulations, as well as in accordance in all material respects with all other specifications set forth above in Section 1 [Duties of Contractor]; and any document referenced and incorporated by reference in Section 35 [Order of Precedence; Incorporation by Reference] herein; and in the other provisions of this Contract. The State shall not be required to pay for work found to be unsatisfactory or inconsistent with this Contract, (including, but not limited to, any applicable accreditation and/or professional service standards and all specifications set forth above in Section 1 [Duties of Contractor]) and any document referenced and incorporated by reference in Section 35 [Order of Precedence; Incorporation by Reference] herein or because Contractor, in performing them, violated any applicable federal, state or local statute, ordinance, rule or regulation or breached the Contract.

12. Confidentiality of State Information. [Modified]

- A. The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that nonpublic data, material, and information gathered, based upon or disclosed to the Contractor for the purpose of this Contract ("Confidential Data") will not be disclosed to or discussed with third parties, except as authorized by this Contract, or as required by court order or Law, without the prior written consent of the State.
- B. The parties acknowledge that the services to be performed by Contractor for the State under this Contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the Contractor and the State agree to comply with their respective obligations under the provisions of IC § 4-1-10 and IC § 4-1-11, if and as applicable to the Services. If any Social Security number(s) is/are disclosed by Contractor, Contractor agrees to pay the cost of the State's notice of disclosure of a breach of the security of the system, if such notice is required by applicable law, in addition to any other claims and expenses for which it is liable under the terms of this Contract.

- C. Security Procedures for Disclosure of Social Security Administration (“SSA”) Records, Information, and Data (“SSA Data”):
- (1) The State will restrict access to SSA Data obtained from SSA to only those authorized contractors and agents who need such SSA Data to perform their official duties in connection with purposes identified in this Contract. The Contractor agrees to abide by all relevant federal laws, restrictions on access, use, and disclosure, and security requirements for SSA Data that are applicable to the Contractor’s performance of the Services [set forth in the following documents which are available for review, by request, in the Legal Division, DCS’ Central Office, and incorporated herein by reference:
 - (2) Information Exchange Agreement Between the Social Security Administration (SSA) and The Indiana Department of Child Services (State Agency), “**IEA**,” a copy of which is on file and available for review, by request, in the Legal Division, DCS’ Central Office and incorporated herein by reference;
 - (3) Computer Matching and Privacy Protection Act Agreement, “**CMPPA Agreement**,” a copy of which is on file and available for review, by request, in the Legal Division, DCS’ Central Office and incorporated herein by reference; and
 - (4) All related attachments referred to in the IEA and the CMPPA Agreement, including, but not limited to, **Attachment 3: Systems Security Requirements for SWA Access to SSA Information Through the ICON System**, and **Attachment 4: Information System Security Guidelines For Federal, State and Local Agencies Receiving Electronic Information from the Social Security Administration**, copies of which are on file and available for review, by request, in the Legal Division, DCS’ Central Office and incorporated herein by reference.]
- (a) The Contractor will not use, duplicate, disseminate, or disclose such Data, without prior notice to and prior written approval of both the State and SSA.
 - (b) The Contractor agrees to maintain a current list of all employees and agents with access to SSA Data and provide such list(s) to the State upon request.
 - (c) The Contractor and its agents who access, use, or disclose SSA data in a manner or purpose not authorized by this Contract may be subject to civil and criminal sanctions pursuant to applicable federal and state statutes.

- D. As used in IRS Exhibit 7 [for General Services] or [for Technology Services], [which is attached hereto as **Exhibit 3** and hereby incorporated by reference], and as used in the remaining paragraphs of this Section:

"return" means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of the Internal Revenue Code ("IRC") which is filed with the Secretary of the Treasury or his delegate (hereinafter in this Section referred to as "Secretary") by, on behalf of, or with respect to any Person (hereinafter in this Section, "Person" means an individual, a trust, estate, partnership, association, company or corporation), and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

"return information" means --

- (1) a Taxpayer's (hereinafter in this Section, "Taxpayer" means any Person subject to any internal revenue tax) identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the Taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any Person under the IRC for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense,
- (2) any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b) of the IRC) which is not open to public inspection under section 6110 of the IRC,
- (3) any advance pricing agreement entered into by a Taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement, and
- (4) any agreement under section 7121 of the IRC, and any similar agreement, and any background information related to such an agreement or request for such an agreement,

but such term does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular Taxpayer. Nothing in the preceding sentence, or in any other provision of law, shall be construed to require the disclosure of standards used or to be used for the selection of returns for examination, or data used or to be used for determining such standards, if the Secretary determines that such disclosure will seriously impair assessment, collection, or enforcement under the internal revenue laws.

- E. For any Federal tax return and return information ("FTI"), in performing its obligations hereunder, the Contractor agrees to comply with all applicable provisions of the "Tax Information Security Guidelines for Federal, State, and Local Agencies," IRS Publication 1075, published by the Secretary of the Treasury and available at the following Internal Revenue Service ("IRS") website (or any designated successor website): <http://www.irs.gov/pub/irs-pdf/p1075.pdf>.
- F. As required by the IRC and to ensure IRS audit compliance, in performing its obligations hereunder, the Contractor must comply with all of the applicable requirements/information set forth in IRS Exhibit 7 [for General Services] or [for Technology Services].
- G. The provisions/requirements outlined above in this Section and outlined in IRS Exhibit 7 [for General Services] or [for Technology Services] equally apply to state of Indiana tax returns and return information, with "return" and "return information" utilized in this sentence in the same manner as such terms are defined above in paragraph **[D]** of this Section, except the terms used herein are received by, recorded by, prepared by, furnished to, collected by, or otherwise related to the Indiana Department of State Revenue.
- H. The parties acknowledge that even though the Contractor has access to Federal tax return and return information ("FTI") pursuant to this Contract, such FTI has not been

obtained from the Internal Revenue Service (“IRS”). If the situation changes and the Contractor is going to have access to FTI obtained from the IRS pursuant to this Contract, this Contract will have to be formally amended to ensure that the Contractor will have to comply with all applicable provisions of the “Tax Information Security Guidelines for Federal, State, and Local Agencies,” IRS Publication 1075, published by the Secretary of the Treasury and available at the following Internal Revenue Service (“IRS”) website (or any designated successor website): <http://www.irs.gov/pub/irs-pdf/p1075.pdf>, and the Contractor will also have to comply with all of the requirements/information set forth in the appropriate IRS Exhibit 7.

I. Notice Regarding Security Incident or Data Breach:

- (a) Incident Response: Contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries, and seeking external expertise, as mutually agreed upon, defined by law, or contained in the contract. Discussing Security Incidents and Data Breaches with the State must be handled on an urgent basis, as part of contractor’s communication and mitigation processes as mutually agreed upon in the Service Level Agreement, contained in this contract, and in accordance with IC 4-1-11 and IC 24-4.9 as they may apply.
- (b) Security Incident Reporting Requirements: The contractor shall report a Security Incident to the State-identified contact(s) as soon as possible by telephone and email, but in no case later than:
 - (i) one (1) hour after the Contractor becomes aware that the Data Breach occurs for any Security Incidents involving a Data Breach of SSA provided PII elements such as Social Security numbers, addresses, dates of birth, and dates of death,
 - (ii) twenty-four (24) hours after the Contractor becomes aware that a Data Breach occurs for any suspected or confirmed incidents involving a Data Breach of FTI or as otherwise required by applicable law, or
 - (iii) one (1) business day, for all other Security Incidents after the Contractor becomes aware that the Security Incident occurs.

Notice requirements may be clarified in the Service Level Agreement in this Contract and shall be construed in accordance with IC 4-1-11 and IC 24-4.9 as they may apply.

- (c) Data Breach Reporting Requirements: If a Data Breach occurs, the contractor shall do the following in accordance with IC 4-1-11 and IC 24-4.9 as they may apply: (1) as soon as possible notify the State-identified contact(s) by telephone and email, but in no case later than two (2) days after the Contractor becomes aware that the Data Breach occurs unless a shorter notice period is required by applicable law; and (2) take commercially-reasonable measures to address the Data Breach in a timely manner. Notice requirements may be clarified in the Service Level Agreement in this Contract. If the Data involved in the Data Breach involves protected health information, personally identifying information, social security numbers, or otherwise confidential information, other sections of this contract may apply. The requirements discussed in those sections must be met in addition to the requirements of this section.

J. Responsibilities Regarding Data Breach: This provision applies when a Data Breach occurs with respect to Encrypted Data within the possession or control of the Contractor:

- (a) The contractor shall: (1) cooperate with the State as reasonably requested by the State to investigate and resolve the Data Breach; (2) promptly implement necessary remedial measures, if necessary; and (3) document and provide to the State responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the Services, if necessary.
- (b) Unless stipulated otherwise in the Statement of Work, if a Data Breach is a result of the Contractor's breach of its contractual obligation to encrypt Data or otherwise prevent its release, the contractor shall bear the costs associated with: (1) the investigation and resolution of the Data Breach; (2) the State's notifications to individuals, regulators, or others required by federal and/or state law, or as otherwise agreed to in the Statement of Work; (3) the State's provision of a credit monitoring service required by federal and/or state law, or as otherwise agreed to in the Statement of Work; (4) the State's provision of a website or a toll-free number and call center for affected individuals required by federal and/or state law; and (5) complete all corrective actions as reasonably determined by Contractor based on root cause and on advice received from the Indiana Office of Technology. If the Data involved in the Data Breach involves protected health information, personally identifying information, social security numbers, or otherwise confidential information, other sections of this contract may apply. The requirements discussed in those sections must be met in addition to the requirements of this section.

13. Continuity of Services. [Modified]

- A. The Contractor recognizes that the service(s) to be performed under this Contract are vital to the State and must be continued without interruption and that, upon Contract expiration and/or termination, a successor, either the State or another contractor, may continue them. The Contractor agrees to:
 - (1) Furnish phase-in training; and
 - (2) Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.
- B. The Contractor shall, upon the State's written notice:
 - (1) Furnish phase-in, phase-out services for up to two (2) months after this Contract expires or is terminated; and
 - (2) Negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the State's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this Contract are maintained at the required level of proficiency.
- C. The Contractor shall maintain the assignment of Contractor staff that are in Vital Positions and active during the project phase during which the transition occurs.
- D. The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period and fees accrued after Contract expiration or termination that result from phase-in, phase-out operations and services).

14. Debarment and Suspension. [Modified]

- A. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.
- B. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract, including a review of information included at <http://www.oig.hhs.gov/> and <https://www.sam.gov/portal/public/SAM/> (and any designated successor websites), and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

15. Default by State.

If the State, sixty (60) days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Contractor may cancel and terminate this Contract and institute measures to collect monies due up to and including the date of termination.

16. Disputes. [Modified]

- A. Should any disputes arise with respect to this Contract, the Contractor and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
- B. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the State or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim against the State for such costs.
- C. If the parties are unable to resolve a contract dispute between them after good faith attempts to do so, a dissatisfied party shall submit the dispute to the Commissioner of the Indiana Department of Administration for resolution. The dissatisfied party shall give written notice to the Commissioner and the other party. The notice shall include: (1) a description of the disputed issues, (2) the efforts made to resolve the dispute, and (3) a proposed resolution. The Commissioner shall promptly issue a Notice setting out documents and materials to be submitted to the Commissioner in order to resolve the dispute; the Notice may also afford the parties the opportunity to make presentations and enter into further negotiations. Within thirty (30) business days of the conclusion of the final presentations, the Commissioner shall issue a written decision and furnish it to both parties. The Commissioner's decision shall be the final and conclusive administrative decision unless either party serves on the Commissioner and the other party, within ten (10) business days after receipt of the Commissioner's decision, a written request for reconsideration and modification of the written decision. If the Commissioner does not modify the written decision within thirty (30) business days, either party may take such other action helpful to resolving the dispute, including submitting the dispute to an Indiana court of competent jurisdiction. If the parties accept the Commissioner's decision, it may be memorialized as a written Amendment to this Contract if appropriate.

- D. The State may withhold payments on disputed items pending resolution of the dispute. Upon resolution of the dispute pursuant to paragraph C of this Section, all payments shall be made within thirty-five (35) calendar days. The unintentional nonpayment by the State to the Contractor of one (1) or more invoices not in dispute in accordance with the terms of this Contract will not be cause for the Contractor to terminate this Contract, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.
- E. With the written approval of the Commissioner of the Indiana Department of Administration, the parties may agree to forego the process described in subdivision C. relating to submission of the dispute to the Commissioner.
- F. This paragraph shall not be construed to abrogate provisions of IC § 4-6-2-11 in situations where dispute resolution efforts lead to a compromise of claims in favor of the State as described in that statute. In particular, releases or settlement agreements involving releases of legal claims or potential legal claims of the state should be processed consistent with IC § 4-6-2-11, which requires approval of the Governor and Attorney General.

17. Drug-Free Workplace Certification.

As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor, or an employee of the Contractor in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will: (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate

personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

18. Employment Eligibility Verification.

As required by IC § 22-5-1.7, the Contractor swears or affirms under the penalties of perjury that the Contractor does not knowingly employ an unauthorized alien. The Contractor further agrees that:

- A. The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC § 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.
- B. The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.
- C. The Contractor shall require his/her/its subcontractors, who perform work under this Contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The State may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

19. Employment Option. [Modified]

- A. For purposes of this Section, the term "employee" refers to the Contractor's employees working on this Contract.
- B. For purposes of this Section, the term "hire" or "hiring" means to hire through a State managed service provider, State quantity purchase agreement, or its equivalent, as an employee.
- C. If the State determines at any time during the term of this Contract (including any extensions thereto) that it would be in the State's best interest to hire an employee of the Contractor, the Contractor will release the selected employee from any non-competition agreements that may be in effect within thirty (30) days of receiving a request for such release from the State. This release will be at no cost to the State or the employee.
- D. The Contractor agrees that the State may initiate conversations about a potential hiring with any employee of the Contractor at any time during the term of this Contract (including any extensions thereto).

20. Force Majeure.

In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

21. Funding Cancellation.

As required by Financial Management Circular 2007-1 and IC § 5-22-17-5, when the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Director of the State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

22. Governing Law.

This Contract shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

23. HIPAA Compliance.

If this Contract involves services, activities or products subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Contractor covenants that it will appropriately safeguard Protected Health Information (defined in 45 CFR 160.103), and agrees that it is subject to, and shall comply with, the provisions of 45 CFR 164 Subpart E regarding use and disclosure of Protected Health Information.

24. Indemnification. [Modified]

The Contractor agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees ("Indemnitees") from all third party claims and suits including court costs, attorney's fees, and other expenses arising from claims:

- (i) By third parties for bodily injury (including death) or damage to real or tangible personal property to the extent caused by any negligent act or omission or intentional or willful misconduct of the Contractor and/or its subcontractors, if any, in the performance of this Contract;
- (ii) By third parties for infringement by a Deliverable (defined as work product first created by Contractor for delivery to the State in performing the Services) of any U.S. patent existing at the time of delivery and known to Contractor or copyright or any unauthorized use of any trade secret, except to the extent that such infringement or unauthorized use arises from, or could have been avoided except for (a) modification of the Deliverable other than by Contractor or its subcontractors, or use thereof in a manner not contemplated by this Contract, (b) the failure of the indemnified party to use any corrections or modifications made available by Contractor, (c) information, materials, instructions, specifications, requirements or designs provided by or on behalf of the indemnified party, or (d) the use of the Deliverable in combination with any platform, product, network or data not provided by Contractor. If the State's use of any such Deliverable, or any portion thereof, is or is likely to be enjoined by order of a court of competent jurisdiction as such an infringement or unauthorized use, Contractor, at its option and expense, shall have the right to (x) procure for the State the continued use of such Deliverable, (y) replace such Deliverable with a non-infringing Deliverable, or (z) modify such Deliverable so it becomes non-infringing; provided that, if (y) or (z) is the option chosen by Contractor, the replacement or

modified Deliverable is capable of performing substantially the same function. In the event Contractor cannot reasonably procure, replace or modify such Deliverable in accordance with the immediately preceding sentence, Contractor may require the State to cease use of such Deliverable and refund the professional fees paid to Contractor with respect to the Services giving rise to such Deliverable. The foregoing provisions of this paragraph constitute the sole and exclusive remedy of the indemnified parties, and the sole and exclusive obligation of Contractor, relating to a claim that any of Contractor's Deliverables infringes any patent, copyright or other intellectual property right of a third party;

(iii) by any personnel of Contractor performing Services for employment benefits or employment compensation, in each case for which Contractor is responsible and has failed to pay, except to the extent that such claim results from acts or omissions of State;

(iv) by any subcontractor or vendor of Contractor for this Contract claiming payment from the Indemnitees as a result of non-payment by Contractor of such subcontractor or vendor;

(v) by third parties to the extent caused by Contractor's recklessness as defined by Black's Law Dictionary (11th ed. 2019), or intentional misconduct while engaged in performing the Services;

(vi) by any agent or representative of a federal entity for any penalties assessed against the State to the extent that said penalties are the result of a disclosure of SSA Data or FTI as a result of the Contractor's breach of its obligations under this Contract; and

(vii) by third parties for Data Breaches to the extent caused by Contractor's gross negligence or recklessness in performing its obligations under this Contract.

Recklessness as used herein is as defined by Black's Law Dictionary (11th ed. 2019) is conduct whereby the actor does not desire harmful consequence but nonetheless foresees the possibility and consciously takes the risk. Recklessness involves a greater degree of fault than negligence but a lesser degree of fault than intentional wrongdoing. Gross negligence as used herein is a conscious, voluntary act or omission in reckless disregard of a legal duty and of the consequences to another party.

The State will not provide indemnification to the Contractor.

25. Independent Contractor; Workers' Compensation Insurance. [Modified]

A. The Contractor is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership, or joint venture agreement between the parties. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees, or subcontractors of the other party.

B. The Contractor shall provide all necessary unemployment and workers' compensation insurance for the Contractor's employees, and shall provide the State with a Certificate of Insurance evidencing such coverage prior to starting work under this Contract.

C. The Contractor certifies and agrees that the services the Contractor provides under this Contract will be performed in accordance with the following guidelines:

(1) Behavioral control - The Contractor will be responsible to direct and control its staff with respect to how to carry out its duties under this Contract including:

(a) monitoring or providing training on how to perform services and

(b) instructions on:

-when and where to do the work;

-what tools or equipment to use;

- what workers to hire or to assist with the work;
- where to purchase supplies and services;
- what work must be performed by a specified individual; and
- what order or sequence to follow.

- (2) Financial control - In carrying out its duties hereunder, the Contractor will be responsible for:
 - (a) all business expenses incurred;
 - (b) any facilities or equipment it requires;
 - (c) managing its resources to meet obligations to the State and any other parties;
 - (d) all employment or contract issues with its staff; and
 - (e) managing any fluctuations in the cost of providing services.
- (3) Type of relationship - The Contractor's relationship with the State:
 - (a) is controlled by this Contract;
 - (b) includes no benefits other than the consideration paid for services rendered;
 - (c) includes no promise of future agreements; and
 - (d) addresses only one aspect of the State's overall mission.

26. Indiana Veteran Owned Small Business Enterprise Compliance [Deleted]

27. Information Technology Enterprise Architecture Requirements.

If this Contract involves information technology-related products or services, the Contractor agrees that all such products or services are compatible with any of the technology standards found at <https://www.in.gov/iot/2394.htm> that are applicable, including the assistive technology standard. The State may terminate this Contract for default if the terms of this paragraph are breached.

28. Insurance.

A. The Contractor and its subcontractors (if any) shall secure and keep in force during the term of this Contract the following insurance coverages (if applicable) covering the Contractor for claims which arise out of or result from Contractor's performance under this Contract:

- (1) Commercial general liability, including contractual coverage pursuant to policy terms and conditions, and products or completed operations coverage (if applicable), with minimum liability limits not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate for bodily injury and property damage unless additional coverage is required by the State. The State is to be included as an additional insured on a primary, non-contributory basis specific to the State's additional insured status and for any liability arising directly or indirectly under or in connection with this Contract.

- (2) Automobile liability for owned, non-owned and hired autos with minimum liability limits not less than \$1,000,000 per accident for bodily injury and property damage. The State is to be an additional insured with respect to the Contractor's acts or omissions in performance under this Agreement on a primary, non-contributory basis specific with the State's additional insured status and Contractor's activities hereunder.
- (3) Errors and Omissions liability with minimum liability limits of \$1,000,000 per claim and in the aggregate. Coverage for the benefit of the State shall continue for a period of two (2) years after the date of service provided under this Contract or a comparable extended reporting period will be arranged.
- (4) Fiduciary liability if the Contractor is responsible for the management and oversight of various employee benefit plans and programs such as pensions, profit-sharing and savings, among others with limits \$5,000,000 per loss.
- (5) Valuable Papers coverage, if applicable, with an Inland Marine Policy Insurance with limits sufficient to pay for the re-creation and reconstruction of such records.
- (6) Surety or Fidelity Bond(s) if required by statute or by the agency.
- (7) Cyber Liability if requested by the State addressing risks associated with electronic transmissions, the internet, networks and informational assets, and having limits of no less than \$1,000,000 per claim for wrongful or negligent acts and \$5,000,000 in the aggregate. The Cyber Liability insurance is embedded in the Contractor's Professional Liability coverage form.

The Contractor shall provide proof of such insurance coverage by tendering to the undersigned State representative an industry standard Acord Certificate of Insurance prior to the commencement of this Contract and proof of Workers' Compensation coverage meeting all statutory requirements of IC § 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana.

B. The Contractor's insurance coverage must meet the following additional requirements:

- (1) The insurer must have a certificate of authority or other appropriate authorization to operate in the state in which the policy was issued.
- (2) Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
- (3) The State will be defended, indemnified and held harmless as required by Section 24 [Indemnification] of this Contract to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.
- (4) The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency unless the Contractor obtains replacement coverage meeting the terms and conditions hereunder without lapse.

(5) The Contractor waives and agrees to require their insurer to waive their rights of subrogation against the State of Indiana as permitted by law. A waiver of subrogation does not apply to the Professional Liability and Cyber Liability coverages.

C. Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to immediately terminate this Contract. The Contractor shall furnish Acord Certificates of Insurance and all endorsements to the State [representative listed in Section 34\(A\)\(1\) \[Notice to Parties\]](#) before the commencement of this Contract.

29. Key Person(s). [Deleted]

30. Licensing Standards. [Modified]

A. The Contractor, its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules, or regulations governing services to be provided by the Contractor pursuant to this Contract. The State will not pay the Contractor for any services performed when the Contractor, its employees or subcontractors are not in compliance with such required and applicable standards, laws, rules, or regulations. If any required license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable required license, certification, or accreditation, the Contractor shall notify the State immediately and the State, at its option, may immediately terminate this Contract, provided; however, if this Contract is terminated based on a license revocation or other disciplinary action that is reversed or overturned on appeal, this Contract will be immediately reinstated by the State. This paragraph shall not apply to any voluntary accreditation that the Contractor chooses to maintain. If accreditation is not required for the Contractor, noncompliance with voluntary accreditation standards shall not constitute grounds for nonpayment, revocation, or any other disciplinary actions outlined in this Section.

B. If the required license of any of the Contractor's employees or subcontractors expires or is revoked, the Contractor will immediately prohibit such employee or subcontractor from providing any services that are subject to this Contract, unless the employee or subcontractor is granted a provisional license or is otherwise authorized to continue to provide services. The State may, at its option, terminate this Contract if the Contractor fails to comply with this requirement.

31. Merger & Modification.

This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented, or amended, except by written agreement signed by all necessary parties.

32. Minority and Women's Business Enterprises Compliance.

Award of this Contract was based, in part, on the Minority and/or Women's Business Enterprise ("MBE" and/or "WBE") participation plan as detailed in the Minority and Women's Business Enterprises Subcontractor Commitment Form, commonly referred to as "Attachment A" in the procurement documentation and incorporated by reference herein. Therefore, any changes to this information during the Contract term must be approved by MWBE Compliance and may require an amendment. It is the State's expectation that the Contractor will meet the subcontractor commitments during the Contract term.

The following MBE/WBE Division (“Division”) certified MBE and/or WBE subcontractors will be participating in this Contract:

MBE/WBE	PHONE	COMPANY NAME	SCOPE OF PRODUCTS and/or SERVICES	UTILIZATION DATE	PERCENT
MBE	(317) 289-5872	Vignesh Technological Solutions	Staff augmentation capacity to support the conversion, interfaces and testing efforts	Throughout contract term	4.24
MBE	(317) 514-6172	IT Transformers	Professional services in staff augmentation capacity to support Federal Reporting, Support of Data Warehouse efforts and testing	Throughout contract term	4.28
WBE	(317) 343-0511	ST Logics	Salesforce and Mulesoft implementation support and assist in resell of Cardinality software	Throughout contract term	11.16
WBE	(317) 966-7339	Briljent, LLC	Professional services in staff augmentation capacity to support the Change Management, Training, and PMO activities	Throughout contract term	1.96

A copy of each subcontractor agreement must be submitted to the Division within thirty (30) days of the effective date of this Contract. The subcontractor agreements may be uploaded into Pay Audit (Indiana’s subcontractor payment auditing system), emailed to MWBECompliance@idoa.IN.gov, or mailed to MWBE Compliance, 402 W. Washington Street, Indianapolis IN 46204. Failure to provide a copy of any subcontractor agreement may be deemed a violation of the rules governing MBE/WBE procurement and may result in sanctions allowable under 25 IAC 5-7-8. Requests for changes must be submitted to MWBECompliance@idoa.IN.gov for review and approval before changing the participation plan submitted in connection with this Contract.

The Contractor shall report payments made to Division certified subcontractors under this Contract on a monthly basis using Pay Audit. The Contractor shall notify subcontractors that they must confirm payments received from the Contractor in Pay Audit. The Pay Audit system can be accessed on the IDOA webpage at: www.in.gov/idoa/mwbe/payaudit.htm. The Contractor may also be required to report Division certified subcontractor payments directly to the Division, as reasonably requested and in the format required by the Division.

The Contractor’s failure to comply with the provisions in this clause may be considered a material breach of the Contract.

33. Nondiscrimination.

Pursuant to the Indiana Civil Rights Law, specifically IC § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee’s or applicant’s race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law (“Protected Characteristics”). The Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Contract, but nothing in this paragraph shall be construed to imply or

establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.

The State is a recipient of federal funds, and therefore, where applicable, the Contractor and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

34. Notice to Parties. [Modified]

A. Whenever any notice, statement or other communication is required under this Contract, it will be sent by E-mail or first-class U.S. mail service to the following addresses, unless otherwise specifically advised.

(1) Notices to the State shall be sent and/or e-mailed to:
Chief Information Officer
Department of Child Services
302 W. Washington Street, Room E306
Indianapolis, IN 46204
E-mail: Kevin.Jones@dcs.in.gov (or successor's email address)

(2) Notices to the Contractor shall be sent and/or e-mailed to:
Todd Higgins, Principal (or successor)
111 Monument Circle, Suite 4200
Indianapolis, Indiana 46204
+1 317.656.2417
E-mail: tohiggins@deloitte.com (or successor's email address)

B. Notice of any change in the person or address to whom notices should be sent and/or e-mailed, as specified in paragraph A of this Section, shall be given to the other party in the manner provided in paragraph A of this Section.

C. As required by IC § 4-13-2-14.8, payments to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by the Contractor with the Indiana Auditor of State.

35. Order of Precedence; Incorporation by Reference. [Modified]

Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) this Contract; (2) any written notices given by the State to the Contractor (including any attachments thereto); (3) Exhibits prepared by the State; (5) RFS#19-081, (6) Contractor's response to RFS#19-081, and (7) Exhibits prepared by the Contractor. All attachments, and all documents referred to in this paragraph, are hereby incorporated fully by reference.

36. Ownership of Documents and Materials. [Modified]

A. All software or modifications; documents; records; programs; applications; data; algorithms; film; tape; articles; memoranda; Dev Ops tools; supporting materials used to design, develop, implement and maintain and operate all aspects of INvest; Cloud Infrastructure; hosted environments; and other materials (the "Materials") not developed or licensed by the Contractor prior to or independently of execution of this Contract or modifications, enhancements or derivatives of the same (collectively "Contractor Technology"), but instead specifically developed under this Contract, shall be considered "work for hire" and the Contractor hereby transfers and assigns any ownership claims to the State, so that all Materials will be the property of the State. If ownership interest

cannot be assigned to the State, the Contractor grants the State and the Federal Government a royalty-free, non-exclusive, world-wide, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for Federal Government purposes, ownership rights in software or modifications thereof to use the Materials and the documentation designed, developed or installed and to use, modify, copy and create derivative works of the Materials.

- (1) In compliance with 45 CFR 95.617(b), the Office of Child Support Enforcement (OCSE) reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for federal government purposes, such software, modifications, and documentation.
 - (2) Pursuant to 45 CFR 95.617(c), the Proprietary Software is described as the proprietary operating/vendor software packages which are provided at established catalog or market prices and sold or leased to the general public, shall not be subject to the ownership provision
 - (3) Federal Financial Participation (FFP) is not available for proprietary application software developed specifically for the public assistance programs covered by and subject to the regulation at 45 CFR Part 95.
- B. Use of the Materials, other than related to contract performance by the Contractor, without the prior written consent of the State, is prohibited. The Contractor shall provide the State full, immediate, and unrestricted access to the Materials during the term of this Contract.
- C. The Contractor shall, upon request, grant the State shared access to any and all documents, including child and family records/files, records, programs, data, film, tape, articles, memoranda, and other Materials related to this Contract within their possession, excluding the AWS environment during the period of design, development and implementation. The Contractor shall provide the State full, immediate, and unrestricted access to such documents during the term of this Contract and upon termination.
- D. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to any of the above-referenced Materials developed for or supplied by the State and/or used to develop or assist in the services provided while the Materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. The Contractor shall also be responsible for preserving and protecting the ownership and property rights of the State in all work in progress and other property to which the State is entitled hereunder, while the property is in the control or custody of the Contractor.
- E. Data Ownership: The State owns all rights, title, and interest in the Data. The Contractor shall not access State user accounts or Data, except: (1) in the normal course of data center operations; (2) in response to Service or technical issues; (3) as required by the express terms of this Contract, applicable Statement of Work, or applicable Service Level Agreement; or (4) at the State's written request.

Contractor shall not collect, access, or use Data except as strictly necessary to provide Service to the State. No information regarding State's use of the Service may be disclosed, provided, rented, or sold to any third party for any reason unless required by law or regulation or by an order of a court of competent jurisdiction. This obligation shall survive and extend beyond the term of this Contract.

- F. Proprietary operating/vendor software package which are provided at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership provisions above.

- G. Grant of License: The Contractor hereby grants to the State, including all of its authorized users, a non-exclusive perpetual right and license to install, use, copy, and modify the software, and to have its third-party service providers to install, use, copy, and modify the software for the State's internal use on its own system(s) or system(s) of its third-party service provider(s), such license to be exercisable by the State. The perpetual right and license granted herein shall provide the State with the following: (1) the right to enhance and update the software to keep it current and useful; and (2) the right for the State to use an independent contractor(s) or third-party support services for these purposes.

37. Payments.

- A. All payments shall be made thirty five (35) days in arrears in conformance with State fiscal policies and procedures and, as required by IC § 4-13-2-14.8, the direct deposit by electronic funds transfer to the financial institution designated by the Contractor in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by IC § 4-13-2-20. If the Contractor prefers not to have any interest calculated on payments made by the State as permitted by Indiana law and referenced below in Section 38 [Penalties/Interest/Attorney's Fees], the Contractor may send a letter indicating such preference to the Indiana Auditor of State with a copy to DCS.
- B. If the Contractor is being paid in advance for the maintenance of equipment, software or a service as a subscription, then pursuant to IC § 4-13-2-20(b)(14), the Contractor agrees to fully provide or perform under this Contract, upon receipt of written notice from the State, it shall promptly refund the consideration paid, pro-rated through the date of non-performance.
- C. A properly prepared invoice/claim must be submitted to DCS within ninety (90) calendar days after the date services are provided or costs incurred pursuant to this Contract. DCS may elect to deny payment of any invoices/claims that are not timely submitted as required in this paragraph. In the event the Contractor delays submitting a claim for which it expects third-party reimbursement, the Contractor may submit a written explanation to DCS as to why the claim was not timely submitted. If DCS deems that such written explanation described above is satisfactory, DCS shall pay otherwise valid claims.

38. Penalties/Interest/Attorney's Fees.

The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, IC § 5-17-5, IC § 34-54-8, IC § 34-13-1 and IC § 34-52-2.

Notwithstanding the provisions contained in IC § 5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

39. Progress Reports.

The Contractor shall submit progress reports to the State upon request. The report shall be oral, unless the State, upon receipt of the oral report, should deem it necessary to have it in written form. The progress reports shall serve the purpose of assuring the State that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date.

40. Public Record.

The Contractor acknowledges that the State will not treat this Contract as containing confidential information, and will post this Contract on the transparency portal as required by Executive Order 05-07 and by IC § 5-14-3.5-2. Use by the public of the information contained in this Contract shall not be considered an act of the State.

41. Renewal Option.

This Contract may be renewed under the same terms and conditions, subject to the approval of the Commissioner of the Department of Administration and the State Budget Director in compliance with IC § 5-22-17-4. The term of the renewed contract may not be longer than the term of the original Contract.

42. Severability.

The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

43. Substantial Performance.

This Contract shall be deemed to be substantially performed only when performed in all material respects according to its terms and conditions and any written amendments or supplements.

44. Taxes.

The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the Contractor as a result of this Contract.

45. Termination for Convenience.

This Contract may be terminated, in whole or in part, by the State, which shall include and is not limited to IDOA and the State Budget Agency whenever, for any reason, the State determines that such termination is in its best interest. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Contractor shall be compensated for services properly rendered prior to the effective date of termination. The State will not be liable for services performed after the effective date of termination. The Contractor shall be compensated for services herein provided but in no case shall total payment made to the Contractor exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date. For the purposes of this paragraph, the parties stipulate and agree that IDOA shall be deemed to be a party to this Contract with authority to terminate the same for convenience when such termination is determined by the Commissioner of IDOA to be in the best interests of the State.

46. Termination for Default and Termination or Suspension for Additional Reasons.
[Modified]

A. Termination for Default.

(1) With the provision of thirty (30) days' notice to the Contractor, the State may terminate this Contract if the Contractor fails to:

(a) Correct or cure any breach of this Contract; the time to correct or cure the breach may be extended beyond thirty (30) days if the State determines progress is being made and the extension is agreed to by the parties,

(b) Deliver the supplies or perform the services within the time specified in this Contract or any extension;

(c) Make progress so as to endanger performance of this Contract; or

(d) Perform any of the other provisions of this Contract.

(2) If the State terminates this Contract, for Contractor's default, it may acquire, under the terms and in the manner the State considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for damages caused by such default in accordance with the terms of this Contract including the limitations of liability set forth in Section 57.

(3) The State shall pay the contract price for completed supplies delivered and services accepted. The Contractor and the State shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause of this Contract. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

(4) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.

B. Termination for Endangering Life, Health, or Safety of Any Person.

If the State determines that any breach of this Contract by the Contractor endangers the life, health, or safety of any person, the State may terminate this Contract by orally notifying the Contractor of the termination, followed by the mailing of written notification thereof within three (3) business days. Termination pursuant to this paragraph shall become effective at the time of the oral notification.

C. Termination for Certain Business Changes, Assignments, and Bankruptcy.

The Contractor agrees that the State may terminate this Contract immediately if the Contractor (1) ceases doing business; (2) assigns, transfers or delegates any of its duties and responsibilities for performance of this Contract to any other person or entity without prior written approval of the State; (3) changes or reorganizes its business in a manner which substantially impairs the ability of the Contractor to perform the services described in this Contract and its exhibits/attachments; (4) attempts to assign, transfer, convey or encumber this Contract in any way except as expressly authorized pursuant to the conditions of this Contract; and/or (5) if an order for relief is entered upon a voluntary or involuntary petition by or against the Contractor under any provision of Title 11, United States Code, and the trustee or debtor-in-possession does not timely assume all obligations of this Contract to be performed by the Contractor, as provided in 11 U.S.C. § 365, or in the event of appointment of a receiver for the Contractor or execution of an assignment for the benefit of creditors of the Contractor. Any notice of termination pursuant to this paragraph shall be provided in writing to the Contractor.

D. Termination for Change in Legal Status.

The Contractor shall provide written notice to the State of any change in the Contractor's legal name or legal status including, but not limited to, a sale or dissolution of the Contractor's business. **When possible, DCS requests such notice ninety (90) days prior to the change in legal status in order to reduce the risk of an interruption in services occurring.** The State reserves the right to terminate this Contract should the Contractor's legal status change in any way. Termination pursuant to this paragraph shall be effective from the date of the change in the Contractor's legal status.

- E. Termination for Additional Reasons Stated in this Contract.
This Contract is also subject to termination or suspension as stated in any other Section of this Contract, including, but not limited to: Section 7 (Audits and Monitoring); Section 10 (Compliance with Laws); Section 15 (Default by State); Section 17 (Drug-Free Workplace Certification); Section 18 (Employment Eligibility Verification); Section 20 (Force Majeure); Section 21 (Funding Cancellation); Section 23 (HIPAA Compliance); Section 27 (Information Technology Enterprise Architecture Requirements); Section 28 (Insurance); Section 29 (Key Person(s)); Section 30 (Licensing Standards); Section 32 (Minority and Women's Business Enterprises Compliance); Section 33 (Nondiscrimination); Section 45 (Termination for Convenience); and Section 50 (Criminal and Background Checks).
- F. State Only Liable for Payment for Services Properly Provided Prior to Termination.
If this Contract is terminated for any reason, the State shall only be liable for payment for services properly provided prior to the effective date of termination with the exception, as set forth above in Section 13 [Continuity of Services] and only if applicable, that the State shall reimburse the Contractor for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration or termination that result from phase-in, phase-out operations). The State shall not be liable for any costs incurred by the Contractor in reliance upon this Contract subsequent to the effective date of termination except as provided in Section 13 [Continuity of Services].

47. Travel.

No expenses for travel will be reimbursed unless specifically authorized by this Contract. Permitted expenses will be reimbursed at the rate paid by the State and in accordance with the Budget Agency's *Financial Management Circular – Travel Policies and Procedures* in effect at the time the expenditure is made. Out-of-state travel requests must be reviewed by the State for availability of funds and for conformance with *Circular* guidelines.

48. Waiver of Rights. [Modified]

No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Contractor's negligent performance of any of the services furnished under this Contract. No waiver by the State of any breach of any provision of this Contract shall constitute a waiver of any prior, concurrent, or subsequent breach of the same or any other provisions hereof.

49. Work Standards. [Modified]

The Contractor shall execute its responsibilities by following and applying at all times the applicable professional standards applicable to the services and programs it provides pursuant to this Contract. The Contractor is responsible for ensuring that its employees, agents, and any subcontractors conform to the professional standards applicable to all services and programs that the Contractor provides under this Contract. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract and/or those individuals assigned to provide any of the services pursuant to this Contract, the State may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

50. Security Background Checks. [Added]

- A. This Section 50 applies to all employees of the Contractor or any subcontractor, who have or will have electronic or physical access to children's child support records in connection with performance of any services or activities pursuant to this Contract ("Covered Personnel"). To the extent applicable, the Contractor shall ensure the completion of all criminal history and background checks required by law, this Contract, and the applicable DCS/CSB policies, including those implemented by Administrative Letter, which is available in its most current form at the following link (or any designated successor website):
<https://www.in.gov/dcs/3928.htm> <https://www.in.gov/dcs/3928.htm>.

All required checks must be completed and all outstanding issues resolved *prior to each staff member's start date on the contract*. The checks will be conducted following the DCS/CSB Background Checks Policies and related documents and the Contractor shall maintain records of information it gathers and receives on Covered Personnel checked pursuant to this Section. The applicable laws and DCS/CSB's policies and practices are updated periodically, but always available in its most current form upon request and the Contractor shall comply with those current as of the time the Contractor executes this Contract, adds Covered Personnel, renews this Contract, or reaches the anniversary date of commencement of a multi-year agreement. The current procedure requires the following checks:

- (1) For those with **only** electronic or physical **access to children's records in accordance with CSB background check policies as set forth below**:
 - (a) *The Contractor will verify the identity* - employed individuals are subject to criminal and background checks by viewing a current government issued picture I.D.; and
 - (b) *CSB will conduct Security Background Checks based on CSB policy*.
 - (i) *Conduct Local Law Enforcement Checks* - employed individuals are subject to local law enforcement checks for all places of residency, schooling, and work in the past five (5) years; and
 - (i) *Conduct FBI fingerprinting Checks* review of Federal Bureau of Investigation (FBI) fingerprint results conducted to identify possible suitability issues using the CSB Favorability Standards; and
 - (ii) *Validate Citizenship/Residency* – the employed should be eligible to legally work in the United States.
 - (c) DCS will conduct Security Background Checks based on DCS policy.
 - (d) *Frequency* - Local law enforcement and fingerprinting reinvestigation must be conducted on Covered Personnel *prior to* the Contract start date and when new Covered Personnel are added.
 - (e) *Notification to Contractor* - Contractor will be notified if Covered Personnel does not meet favorability standards.
- (2) Background Check Policy from DCS Background Check Unit For all Covered Personnel and Subcontractors:

- (a) The Contractor shall require Covered Personnel to immediately notify the Contractor of any information about them that would have been revealed by the checks above including substantiation for child abuse or neglect or other similar complaints or charges, and of any convictions or arrests. The Contractor shall immediately relay such notice to CSB.
 - (b) The Contractor shall ensure all subcontractors have the required background checks. The subcontractor cannot register under the name of the Contractor.
 - (c) Each subcontractor will be responsible for coordinating with the Contractor to evaluate their results and resolve any outstanding issues. The subcontractor will be responsible for retaining their own background check results in their own personnel files but shall provide the primary Contractor with the Confirmation.
- (3) The required checks must be performed every ten (10) years based on the anniversary of the individual Covered Personnel's initial checks.
- B. The Contractor shall maintain a record of the results of each check conducted pursuant to this Section. The Contractor shall, if requested by the State, provide a copy of that record to CSB or make the record available for inspection by an authorized representative of CSB, provided that CSB hereby agrees to maintain the confidentiality thereof.
 - D. In the event a criminal history or background check required herein produces any record concerning the subject of a check that would be a ground for denial of his or her ability to provide services and/or perform activities pursuant to this Contract and the Contractor chooses to retain such employee or volunteer, which grounds are set forth in IC 10-13-3-38.5, that decision may be considered a material breach of this Contract.
 - E. The Contractor will be responsible for payment of all fees required to be paid for conducting any check required under this Section.
 - F. Upon request, CSB will assist the Contractor in clarifying the requirements of this Section.

51. Lobbying Activities. [Added]

- A. Pursuant to 31 U.S.C. § 1352, and any regulations promulgated thereunder, the Contractor hereby assures and certifies, to the best of its knowledge and belief, that no federally appropriated funds have been paid, or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.
- B. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Contract, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying". If the Contractor is required to submit Standard Form-LLL, the form and instructions for preparation of the form may be obtained from the State.

- C. The Contractor shall require that the language of this certification be included in any subcontracts and that all subcontractors shall certify and disclose accordingly.
- D. The foregoing certification is a material representation of fact upon which reliance was or will be placed when entering into this Contract and any transactions with the State. Submission of this certification is a prerequisite for making or entering into any transaction as imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

52. Davis-Bacon Act. [Added]

The Davis-Bacon Act (40 U.S.C. 3141, et. seq.) provides that contracts in excess of \$2,000 to which the United States or the District of Columbia is a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works within the United States, shall contain a clause (see 52.222-6) that no laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing wage rates as determined by the Secretary of Labor. To the extent that this Act applies to this Contract, Contractor affirms that it is in compliance with these federal requirements.

53. Copeland Act [Added]

The Copeland (Anti-Kickback) Act (18 U.S.C. 874 and 40 U.S.C. 3145) makes it unlawful to induce, by force, intimidation, threat of procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment. The Copeland Act also requires each contractor and subcontractor to furnish weekly a statement of compliance with respect to the wages paid each employee during the preceding week. Contracts subject to the Copeland Act shall contain a clause (see 52.222-10) requiring contractors and subcontractors to comply with the regulations issued by the Secretary of Labor under the Copeland Act. To the extent that this Act applies to this Contract, Contractor affirms that it is in compliance with these federal requirements.

54. Environmental Standards. [Added]

The Contractor shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. §7401, et seq.), and its associated Executive Orders, and Section 508 of the Clean Water Act (33 U.S.C. §1251, et seq.) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. The Contractor shall report any violations of the foregoing in this paragraph to the State of Indiana and to the United States Environmental Protection Agency Assistant Administrator for Enforcement. The Contractor shall also comply with mandatory standards and policies related to energy efficiency that are contained in the State energy conservation plan issued in accordance with the Energy Policy and Conservation Act (42 U.S.C. 6201), to the extent applicable to Contractor in its performance of its obligations hereunder.

55. Survival. [Added]

All terms of this Contract which, by their nature, are intended to survive termination, in whole or in part, or expiration of this Contract will survive termination, in whole or in part, or expiration of this Contract, including, but not limited to, the following sections: Section 4. Access to Records; Section 6. Assignment of Antitrust Claims; Section 7. Audits and Monitoring; Section 12. Confidentiality of State Information; Section 13. Continuity of Services; Section 16. Disputes; Section 19. Employment Option; Section 22. Governing Law; Section 23. HIPAA Compliance;

Section 24. Indemnification; Section 36. Ownership of Documents and Materials; Section 37. Payments; Section 38. Penalties/Interest/Attorney's Fees; Section 40. Public Record; Section 45. Termination for Convenience; Section 46. Termination for Default and Termination or Suspension for Additional Reasons; Section 47. Travel; Section 48. Waiver of Rights; Section 50. Security Background Checks; Section 51. Lobbying Activities; and Section 56, Limitation of Liability. The above list of sections surviving the termination or expiration of this Contract is not exhaustive and there are other provisions of this Contract which shall survive the termination, in whole or in part, or expiration of this Contract.

56. Limitation of Liability. [Added]

Contractor and its subsidiaries and their respective personnel shall not be liable to the State for any claims, liabilities, or expenses relating to this Contract or the Services ("Claims") for damages which, in the aggregate, exceed (a) for Claims accruing under this Contract other than during either of the Optional Contract Extensions, the amount equal to the total expected fees to be paid by State to Contractor under this Contract for the DDI Milestones (excluding any amounts for hardware and software), and (b) for Claims accruing under this Contract during either of the Optional Contract Extensions, the total expected fees to be paid by State to Contractor for the applicable Optional Contract Extension during which the Claim accrues (excluding any amounts for hardware and software). Except for damages for which Contractor is obligated to indemnify as required in accordance with Section 24 [Indemnification], and liquidated damages provisions, in no event will Contractor and its subsidiaries have any liability arising out of or related to this Contract for any lost profits, revenues, goodwill, or indirect, special, incidental, consequential, cover, business interruption or punitive damages, whether an action is in Contract or tort and regardless of the theory of liability. The limitations in this section shall apply even if a party has been advised of the possibility of such damages or if such remedy otherwise fails of its essential purpose. The foregoing limitations shall not apply to the extent prohibited by law.

57. Rights to Inventions Made Under a Contract or Agreement – Added

If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

58. State Boilerplate Affirmation Clause.

I swear or affirm under the penalties of perjury that I have not altered, modified, changed or deleted the State's standard contract clauses (as contained in the *2018 OAG/IDOA Professional Services Contract Manual* or the *2019 SCM Template*) in any way except as follows:

4. Access to Records -- modified;
5. Assignment; Successors; and Subcontracting -- modified;
7. Audits and Monitoring -- modified;
9. Changes in Work -- modified;
10. Compliance with Laws -- modified;
11. Condition of Payment -- modified;
12. Confidentiality of State Information -- modified;
13. Continuity of Services -- modified;
14. Debarment and Suspension -- modified;
16. Disputes -- modified;
19. Employment Option -- modified;

24. Indemnification -- modified;
 25. Independent Contractor; Workers' Compensation Insurance -- modified;
 26. Indiana Veteran Owned Small Business Enterprise Compliance -- deleted;
 29. Key Person -- deleted;
 30. Licensing Standards -- modified;
 34. Notice to Parties -- modified;
 35. Order of Precedence; Incorporation by Reference -- modified;
 36. Ownership of Documents and Materials -- modified;
 46. Termination for Default and Termination or Suspension for Additional Reasons -- modified;
 48. Waiver of Rights -- modified;
 49. Work Standards -- modified;
 50. Security Background Checks -- added;
 51. Lobbying Activities -- added;
 52. Davis-Bacon Act. -- added;
 53. Copeland Act -- added;
 54. Environmental Standards -- added;
 55. Survival -- added;
 56. Limitation of Liability -- added;
 57. Rights to Inventions Made Under a Contract or Agreement -- added; and
 58. State Boilerplate Affirmation Clause.
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THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Contractor, or that the undersigned is the properly authorized representative, agent, member or officer of the Contractor. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor attests to compliance with the disclosure requirements in IC § 4-2-6-10.5.**

Agreement to Use Electronic Signatures

I agree, and it is my intent, to sign this Contract by accessing State of Indiana Supplier Portal using the secure password assigned to me and by electronically submitting this Contract to the State of Indiana. I understand that my signing and submitting this Contract in this fashion is the legal equivalent of having placed my handwritten signature on the submitted Contract and this affirmation. I understand and agree that by electronically signing and submitting this Contract in this fashion I am affirming to the truth of the information contained therein. I understand that this Contract will not become binding on the State until it has been approved by the Department of Administration, the State Budget Agency, and the Office of the Attorney General, which approvals will be posted on the Active Contracts Database:

https://fs.gmis.in.gov/psp/guest/SUPPLIER/ERP/c/SOI_CUSTOM_APPS.SOI_PUBLIC_CNTRCT S.GBL

In Witness Whereof, the Contractor and the State have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below agree to the terms thereof.

Deloitte Consulting LLP

Indiana Department of Child Services

By: Todd J. Higgins

By: *Terry J Stigdon*

Title: Principal

Title: Director

Date: 04/27/2020

Date: April 28, 2020

Electronically Approved by: Indiana Office of Technology By: _____ (for) Dewand Neely, Chief Information Officer	Electronically Approved by: Department of Administration By: _____ (for) Lesley A. Crane, Commissioner
Electronically Approved by: State Budget Agency By: _____ (for) Zachary Q. Jackson, Director	Electronically Approved as to Form and Legality: Office of the Attorney General By: _____ (for) Curtis T. Hill, Jr., Attorney General