



COMMONWEALTH of VIRGINIA
Department of Medical Assistance Services

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March 27, 2018


MEMORANDUM

TO: The Honorable Thomas K. Norment, Jr.
Co-Chairman, Senate Finance Committee

The Honorable Emmett W. Hanger, Jr.
Co-Chairman, Senate Finance Committee

The Honorable S. Chris Jones
Chairman, House Appropriations Committee

Daniel Timberlake
Director, Department of Planning and Budget

FROM: Jennifer S. Lee, M.D. 
Director, Virginia Department of Medical Assistance Services

SUBJECT: Report on the Replacement of the Medicaid Management Information System – Contract
Awarded to Deloitte Consulting LLP

The 2017 Appropriation Act, Chapter 836, 310 L, states:

2. Within 30 days of awarding a contract or contracts related to the replacement project, the Department of Medical Assistance Services shall provide the Chairmen of the House Appropriations and Senate Finance Committees, and the Director, Department of Planning and Budget, with a copy of the contract including costs.

On March 7, 2018, the Department of Medical Assistance Services awarded the Medicaid Enterprise System Integration Services Solution Contract to Deloitte Consulting LLP. Please find the completed contract including costs provided with this letter.

Should you have any questions or need additional information, please feel free to contact me at (804) 786-8099.

JSL/

Enclosure

pc: The Honorable Daniel Carey, M.D., Secretary of Health and Human Resources



Integration Services Solution Contract

between

The Department of Medical Assistance Services

and

Deloitte Consulting LLP

**INTEGRATION SERVICES SOLUTION CONTRACT
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INFORMATION TECHNOLOGY SOLUTION CONTRACT

THIS Integration Services Solution CONTRACT ("Contract") is entered into by and between the Virginia Department of Medical Assistance Services (DMAS), pursuant to §2.2-2012 of the Code of Virginia, and Deloitte Consulting LLP ("Supplier"), a corporation with an office at 901 E. Byrd Street, Suite 820 West Tower, Richmond, VA 23219, to be effective as of March 7, 2018 ("Effective Date").

1. PURPOSE AND SCOPE

This Contract sets forth the terms and conditions under which Supplier agrees to provide and implement for DMAS an Integration Services Solution (ISS) as described in Exhibit A, Requirements. If Supplier proposes a Supplier hosted solution, then Exhibit G – Cloud Services - Additional Terms and Conditions shall apply and be incorporated into the governing contract.

2. DEFINITIONS

A. Acceptance

Successful delivery of a Component, unit of the Solution, or the Solution, as applicable, which shall be defined as meeting the applicable Requirements at the location(s) designated in the Contract, as verified by completed and successful Acceptance testing demonstrating conformance with the applicable Requirements, in accordance with Section 10 below.

B. Agent

Any third party independent agent of DMAS.

C. Business Day/Hour

Normal operating hours for the Commonwealth of Virginia: Monday-Friday, 8 a.m.-5 p.m. Eastern Standard/Daylight Time, unless otherwise specified in the contract documents, excluding Commonwealth-designated holidays.

D. Center for Medicare and Medicaid Services (CMS)

CMS is the federal agency responsible for administering the Medicare, Medicaid, SCHIP (State Children's Health Insurance), HIPAA (Health Insurance Portability and Accountability Act), CLIA (Clinical Laboratory Improvement Amendments), and several other health-related programs. Additional information regarding CMS and its programs is available at <http://www.cms.hhs.gov/>.

E. Component

Custom Software, configurations, or other Deliverable that is not an Application or Cloud Services, delivered by Supplier under this Contract.

F. Computer Virus

Any malicious code, program, or other internal component (e.g., computer virus, computer worm, computer time bomb, or similar component), which could damage, destroy, alter or disrupt any computer program, firmware, or hardware or which could, in any manner, reveal, damage, destroy, alter or disrupt any data or other information accessed through or processed by such software in any manner.

G. Confidential Information

Any confidential or proprietary information of a Party that is disclosed in any manner, including oral or written, graphic, machine readable or other tangible form, to any other Party in connection with or as a result of discussions related to this Contract and which at the time of disclosure either (i) is marked as being "Confidential" or "Proprietary"; (ii) is otherwise reasonably identifiable as the confidential or proprietary information of the disclosing Party; (iii) under the circumstances of disclosure should reasonably be considered as confidential or proprietary information of the disclosing Party; (iv) is identifiable or should be reasonably considered as protected health information; or (v) any personally identifiable information, including information about DMAS' employees, contractors, and customers, that is protected by statute or other applicable law.

G.1. Custom Software

See V.

G.2 Defect

A failure of a unit of the Solution to conform with its applicable Requirements, including but not limited to, Supplier provided & DMAS approved "Detailed Specification Design (DSD)" documentation.

H. Deliverable

The tangible embodiment of the work performed or Services, Maintenance Services, Cloud Services, Solution, Component, Software, plans, reports, data, Product, Supplier Technology, Updates, and applicable unit of the solution provided by the Supplier in fulfilling its obligations under the Contract, including any Work Product, if Work Product is authorized under the Contract. Specific Deliverables, subject to acceptance testing in Section 10.A, will be identified during the creation of the mutually agreed upon acceptance criteria and included within the "Quality Assurance/Test Management Plan."

I. Department of Medical Assistance Services

The Department of Medical Assistance Services (DMAS) is the Medicaid "single state agency" in Virginia tasked with the administration of the Title XIX Program and other state and locally funded health financing programs.

J. Desktop Productivity Software

Intentionally Left Blank

K. Documentation

Those materials (including user manuals, training materials, guides, product descriptions, technical manuals, product specifications, supporting materials and Updates) specifically developed for DMAS under the Contract detailing the information and instructions needed in order to allow DMAS and its Agents to make use of the Application, Custom Software, Solution, Component, Supplier Technology, Service, Cloud Services or other Deliverable, and to implement and help develop self-sufficiency with regard to the Application, Custom Software, Solution, Component, Supplier Technology, Service, Cloud Services or other Deliverable, provided by Supplier in fulfilling its obligations under the Contract.

L. Electronic Self-Help

Any use of electronic means to exercise Supplier's license termination rights, if allowable pursuant to the Contract, upon breach or cancellation, termination or expiration of this Contract.

M. Health Record

"Health record" means any written, printed or electronically recorded material maintained by a health care entity in the course of providing health services to an individual concerning the individual and the services provided. "Health record" also includes the substance of any communication made by an individual to a health care entity in confidence during or in connection with the provision of health services or information otherwise acquired by the health care entity about an individual in confidence and in connection with the provision of health services to the individual. (§ 32.1-127.1:03, Code of Virginia).

N. Maintenance Coverage Period (MCP)

The term during which Maintenance is to be provided for a unit of the Solution (including Custom Software or the Application), which shall commence upon deployment of such unit of Custom Software or the Application into production, and continue throughout the remainder of the term of the Contract.

O. Maintenance Level

The defined parameters of Maintenance Services, including the times during which and time-frames in which Supplier shall respond to a request for Maintenance Services. The available Maintenance Levels shall be as defined in Contract and its Exhibits.

P. Maintenance Services (or "Maintenance" or "Software Maintenance")

If authorized by the Contract, means those services, preventive and remedial, provided or performed by Supplier under the Contract in order to provide for continued operation of the Solution or a unit of the Solution, including Software Updates, as described in Exhibit A. Maintenance Services shall include support services as described in Exhibit A. Software Maintenance Services may include the development of Work Product, if so authorized in the Contract. Warranty services will be provided as a part of Maintenance Services.

Q. Party

Supplier or DMAS.

R. Protected Health Information

Protected health information (PHI) means individually identifiable health information that is (i) transmitted in electronic media, (ii) maintained in electronic media, or (iii) transmitted or maintained in any other form or medium. Protected health information excludes individually identifiable health information in (i) education records covered by the Family Educational Rights and Privacy Act, as amended, (20 U.S.C. § 1232g); (ii) in records of any student who is 18 years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student and are not available to anyone other than persons providing such treatment, except that such records may be personally reviewed by a physician or other appropriate professional of the student's choice; (iii) in employment records held by a covered entity in its role as employer; and (iv) regarding a person who has been deceased for more than 50 years. (45 CFR 160.103)

S. Receipt

When DMAS has physically or electronically received any Deliverable at the agreed-upon “ship-to” or delivery location.

T. Requirements

The functional, performance, operational, compatibility, Acceptance testing criteria and other parameters and characteristics of the Solution, Component, Service(s), Cloud Services, and Deliverables, as authorized by the Contract and as set forth in Exhibit A and Application Documentation and such other parameters, characteristics, or performance standards that may be agreed upon in writing by the Parties or in a duly authorized Change Order.

U. Services

Any work performed or service provided by Supplier in fulfilling its obligations, to the then-current date, under the Contract including design, and development of software and modifications, software updates, configurations, implementation, installation, maintenance, support, testing, training, or other provision authorized by the Contract scope. As permitted by the scope of the Contract, may include the discovery, creation, or development of Work Product, if any. If Work Product is authorized, refer to definition for Work Product. For details about the work and services to be provided by Supplier under this Contract, see Exhibit A. This definition does not include Cloud Services.

V. Custom Software

Custom Software means those programs and code created by Supplier for delivery to DMAS under the Contract as a Component(s) or unit of the Solution as a Deliverable or Work Product, and its code, and/or as defined by CMS' conditions for reuse.

W. Software Publisher

If third party software is authorized under the Contract, means the licensor of the third party software, other than Supplier, provided by Supplier under this Contract.

X. Solution

The Supplier's solution, as described in Exhibit A - Requirements, as defined and authorized by the scope of the Contract, which is comprised of, including but not limited to the Components, Application, Services, Work Product, and Cloud Services (i.e., the operation and management (including any maintenance and support) of the Solution related to necessary operating system software, hardware and utilities on Supplier's or its vendor's host computer system, storing Content and making the Solution and Content available to Solution User(s) via the Web Site, as more fully described in Exhibit A).

X1. Solution Users

Solution Users shall consist of employees of DMAS, the Commonwealth of Virginia and its Agencies, independent or other contractors engaged by DMAS, or entities contracting with DMAS for services, as well as DMAS customers, suppliers, members of the general public, and other entities with whom DMAS may find it necessary or desirable to process or communicate electronically in pursuit of its business.

Y. Supplier

Means Deloitte Consulting LLP.

Y.1. Supplier Technology

Supplier's proprietary software programs, reports, information and data made available to DMAS and its Solution Users as part of the Cloud Services. Also includes, works of authorship, materials, information and other intellectual property created by Supplier or its subcontractors prior to or independently of the performance of the Services, and modifications or derivative works thereof, subject to CMS reuse requirements.

Z. Update (or "Software Updates")

As applicable, any update, modification or new release of the Cloud Services, Application, Component, or Documentation that Supplier or its licensors makes generally available to its customers at no additional cost. Software Updates include patches, fixes, upgrades, enhancements, improvements, or access mode, including without limitation additional capabilities to or otherwise improve the functionality, increase the speed, efficiency, or base operation of the applicable software.

AA. Virginia Information Technologies Agency (VITA)

Virginia Information Technologies Agency (VITA) is an agency of the Commonwealth of Virginia pursuant to Chapter 20.1 of Title 2.2 (§§2.2-2005 et seq.) of the Code of Virginia.

BB. Work Product

Inventions, combinations, machines, methods, formulae, techniques, processes, improvements, software designs, computer programs, strategies, data and original works of authorship (collectively, the "Work Product") created, or developed by Supplier, or jointly by Supplier and DMAS in the performance of this Contract. Work Product shall also include configuration and design specifications & documentation created by Supplier for delivery to DMAS in the performance of this Contract. All Services performed hereunder shall include delivery of all (re)useable source and object code and all executables and Documentation for all Work Product.

BB.1. NOTE: COTS products and Software as a Service (SaaS) solutions are designed, developed and licensed by the vendor, and the Commonwealth is not entitled to ownership rights to the core program. When CMS enhanced matched is used for COTS configuration or customization, those elements become subject to existing regulation at 45 CFR §96.617 regarding state and federal ownership and royalty-free licensing. The requirement for a royalty-free, non-exclusive and irrevocable license to software referenced in that regulation applies only to software related to the customization and configuration of a COTS product for Commonwealth use (Work Product as described above) and does not apply to the core product. The Commonwealth, and other states, could freely share and re(use) the resulting COTS software configuration and customization (Work Product), subject to the licensing of the core COTS software products.

3. TERM AND TERMINATION

A. Contract Term

This Contract is effective and legally binding as of the Effective Date (March 7, 2018) and, unless terminated as provided for in this section, shall continue to be effective and legally binding until the date of completion of the O&M Phase. The overall Contract Term comprises both "Design, Development and Implementation" (DDI) & "Operations and Maintenance" (O&M) phases. The "DDI phase" will begin on the effective date and end no earlier than (Effective Date + approximately twenty-four [24] months, at February 31, 2020) and no later than (Effective Date + approximately 30 months, at September 1, 2020). The

“O&M phase” (or “O&M period”) will begin immediately upon the completion of the DDI Phase but no earlier than (Effective Date + approximately twenty-four [24] months) and will end 60 months from the commencement of the O&M Phase. DMAS, in its sole discretion, may extend this Contract with up to three (3) one-year option periods. DMAS will issue a modification to this Contract stating the extension period, not less than thirty (30) days prior to the expiration of any current term.

B. Termination for Convenience

DMAS may terminate this Contract in whole (or in part, subject to the execution of a change order) upon not less than thirty (30) days prior written notice at any time for any reason.

C. Termination for Breach or Default

DMAS shall have the right to terminate this Contract in whole or in part, for breach and/or default of Supplier. Supplier shall be deemed in breach and/or default in the event that Supplier fails to meet any material obligation set forth in this Contract.

If DMAS deems the Supplier to be in breach and/or default, as defined above, DMAS shall provide Supplier with written notice of breach and/or default and allow Supplier to cure the breach and/or default in a time period determined by DMAS, which shall be appropriate to the complexity and severity of the matter and generally shall not be less than thirty (30) days. If Supplier fails to cure the breach and/or default as noted, upon written notice DMAS may immediately terminate this Contract in whole or in part. Any such termination shall be deemed a Termination for Breach or Termination for Default, unless DMAS' election to terminate this Contract for default under this Section is determined by a court of competent jurisdiction to have been wrongful, then the termination shall automatically be considered a termination for convenience. In addition, if Supplier is found by a court of competent jurisdiction to be in violation of or to have violated 31 USC 1352 or if Supplier becomes a party excluded from Federal Procurement and Non-procurement Programs, DMAS may immediately terminate this Contract, in whole or in part, for breach, and DMAS shall provide written notice to Supplier of such termination. Supplier shall provide prompt written notice to DMAS if Supplier is charged with violation of 31 USC 1352 or if federal debarment proceedings are instituted against Supplier.

D. Termination for Non-Appropriation of Funds

All payment obligations from public bodies under this Contract are subject to the availability of legislative appropriations at the federal, state, or local level, for this purpose. In the event of non-appropriation of funds, irrespective of the source of funds, for the items under this Contract, DMAS may terminate this Contract in whole (or in part, subject to a change order) for those goods or services for which funds have not been appropriated. Written notice will be provided to the Supplier as soon as possible after legislative action is completed.

E. Termination Because of Financial Instability

If DMAS determines that there are verifiable indicators that the Supplier will become financially unstable to the point of threatening the ability of DMAS to obtain the Solution & Cloud Services provided for under the Contract, DMAS will require verification of the Supplier's financial situation. If, from the information, DMAS determines the Supplier will inevitably become financially unstable, DMAS may terminate the Contract before this occurs. If the Supplier ceases to conduct business in the normal course, makes a general assignment for the benefit of creditors, or suffers or permits the appointment of a receiver

for its business or assets, DMAS may, at its option, immediately terminate this Contract effective at the close of business on a date specified by DMAS. In the event that DMAS elects to terminate the Contract under this provision, the Supplier shall be notified in writing, by either certified or registered mail, specifying the date of termination. The Supplier shall submit a written waiver of the licensee's rights under the federal bankruptcy laws.

In the event of the filing of a petition in bankruptcy by a subcontractor, the Supplier shall immediately so advise DMAS. The Supplier shall ensure that all tasks that have been delegated to its subcontractor(s) are performed in accordance with the terms of this Contract.

F. Effect of Termination

Upon termination, neither the Commonwealth, nor DMAS, shall have any future liability except for Deliverables accepted by DMAS or Services, Cloud Services and Maintenance Services, rendered by Supplier in accordance with this Contract prior to the termination date. The effect of termination of the Contract will be to discharge both the Supplier and DMAS from future performance of the Contract, but not from the rights and obligations of each Party that existed at the time of termination.

In the event of a Termination for Convenience, DMAS will provide reasonable compensation for the actual amounts tied to commitments to (a) Supplier's licensors for COTS software, or (b) Supplier's third party providers or (c) prepaid amounts including but not limited to subscription fees unless such amounts ((a) – (c)) are being transferred to DMAS if permitted. Supplier must demonstrate the actual costs of the commitments.

In the event of a Termination for Breach or Termination for Default, Supplier shall accept return of any Deliverable that was not accepted by DMAS, and Supplier shall refund any monies paid by DMAS for such Deliverable, and all costs of de-installation and return of such Deliverable shall be borne by Supplier. In the event the Supplier is terminated for Breach or Default, then DMAS may in its sole discretion, elect to continue licensing the Application, third party products, and/or Cloud Services, subject to the terms of a mutually agreeable license agreement governing such use, including the actual demonstrated residual costs therefore.

G. Termination by Supplier

Termination by Supplier will not be considered.

H. Transition of Services

Prior to or upon expiration or termination of this Contract and at the request of DMAS, Supplier shall provide all assistance as DMAS may reasonably require to transition the Supplier's contractual obligations, or any portion thereof, as requested by DMAS to any other supplier with whom DMAS contracts for provision of same. This obligation may extend beyond expiration or termination of the Contract for a period not to exceed six (6) months, pursuant to the Code of Virginia § 2.2-4309 (B). In the event of a termination for breach and/or default of Supplier, Supplier shall provide such assistance at no charge or fee to DMAS for up to six (6) weeks, or as outlined in Exhibit B, whichever is greater; otherwise, Supplier shall provide such assistance at the hourly rate or a charge agreed upon by Supplier and DMAS in Exhibit B.

I. Contract Kick-Off Meeting

Within 30 days of Contract award, Supplier may be required to attend a contract orientation meeting, along with the DMAS contract manager/administrator, the DMAS and/or other agency project manager(s) or authorized representative(s), technical leads, DMAS representatives for SWaM, as applicable, and any other significant stakeholders who have a part in the successful performance of this Contract. The purpose of this meeting will be to review all contractual obligations for both parties, all administrative and reporting requirements, and to discuss any other relationship, responsibility, communication and performance criteria set forth in the Contract. The Supplier may be required to have its assigned account manager as specified in Exhibit A, Requirements, and any other significant Supplier stakeholders who have a part in the successful performance of this Contract in attendance. The time and location of this meeting will be coordinated with Supplier and other meeting participants by the DMAS contract manager.

J. Contract Closeout

Prior to the contract's expiration date, Supplier may be provided reasonable contract close out documentation and shall complete, sign and return to DMAS Contract Administrator within 30 days of receipt, or longer period of time as is reasonable for the type of documentation requested. This documentation may include, but not be limited to: Patent/Royalty Certificate, Tangible Property/Asset Certificate, Escrow Certificate, SWaM Reports Completion Certificate, other required Small Business (SWaM) Procurement Plan compliance/variance and non-SWaM spend documentation as described in the Reporting section of this Contract, and Final Payment Certificate. Supplier is required to process these as requested to ensure completion of close-out administration and to maintain a positive performance reputation with the Commonwealth of Virginia. Any closeout documentation not received within 30 days of Supplier's receipt of the Commonwealth's request will be documented in the contract file as Supplier non-compliance. Supplier's non-compliance may affect any pending payments due the Supplier, including final payment, until the documentation is returned.

4. SUPPLIER PERSONNEL

A. Selection and Management of Supplier Personnel

Supplier shall take such steps as may be necessary to ensure that all Supplier personnel performing under this Contract are competent and knowledgeable of the contractual arrangements between DMAS and Supplier. Supplier shall be solely responsible for the conduct of its employees, agents, and subcontractors, including all acts and omissions of such employees, agents, and subcontractors, and shall ensure that such employees and subcontractors comply with (a) while on DMAS's premises, the DMAS' site security, information security and personnel conduct rules, as well as (b) applicable federal, state and local laws, including export regulations. DMAS reserves the right to require the immediate removal from DMAS' premises of any employee, subcontractor or agent of Supplier whom such DMAS believes has failed to comply with the above or whose conduct or behavior is unacceptable or unprofessional or results in a security or safety breach.

B. Supplier Personnel Supervision

Supplier acknowledges that Supplier or any of its agents, contractors, or subcontractors, is and shall be the employer of Supplier personnel, and shall have sole responsibility to supervise, counsel, discipline, review, evaluate, set the pay rates of, provide (to the extent required by law) health care and other benefits for, and terminate the employment of

Supplier personnel. DMAS shall have no such responsibilities for Supplier or subcontractor personnel.

C. Key Personnel

The Supplier designates certain of Supplier's personnel as Key Personnel or Project Managers. Supplier's obligations with respect to Key Personnel and Project Managers shall be described in Exhibit A, Requirements. Failure of Supplier to perform in accordance with such obligations may be deemed a default of this Contract.

D. Subcontractors

Supplier shall not use subcontractors to perform its contractual obligations under the Contract unless specifically authorized in writing to do so by DMAS. If a part of this Contract is supported in whole or in part with federal funds, Supplier shall not subcontract to any subcontractor that is a party excluded from Federal Procurement and Non-procurement Programs. In no event shall Supplier subcontract to any subcontractor which is debarred by the Commonwealth of Virginia or which owes back taxes to the Commonwealth and has not made arrangements with the Commonwealth for payment of such back taxes.

If Supplier subcontracts the provision of any performance obligation under this Contract to any other party, Supplier will (i) act as prime contractor and shall be the sole point of contact with regard to all obligations under this Contract, and (ii) hereby represents and warrants that any authorized subcontractors shall perform in accordance with applicable laws and any applicable warranties set forth in this Contract.

Supplier is responsible for the performance of its subcontractors used in providing any portion of the Solution. Additionally, Supplier is responsible for its subcontractors' compliance with the terms and conditions of this Contract. In the event of the filing of a petition in bankruptcy by a subcontractor, the Supplier shall immediately so advise DMAS. The Supplier shall ensure that all tasks that have been delegated to its subcontractor(s) are performed in accordance with the terms of this Contract.

DMAS acknowledges the limited use of subcontracting portions of the Services to Supplier affiliates or related entities and third parties as specified in detail in the Supplier's proposal.

5. NEW TECHNOLOGY

A. Access to New Technology

Supplier will bring to DMAS' attention any new products or services within the scope of the Contract that it believes will be of interest to DMAS and will work to develop proposals for the provision of any such products or services as DMAS requests.

B. New Service Offerings Not Available from Supplier

If new or replacement product or service offerings become available to DMAS under the scope of the Contract, and cannot be competitively provided by the Supplier, DMAS may purchase such new or replacement products or services from a third party, and Supplier and DMAS may mutually agree in writing via an amendment or change order hereto, that Supplier will, in exchange for the fees set forth in such amendment or change order, reasonably assist DMAS to migrate to such products or services, if DMAS elects to use such new or replacement product or service offerings.

6. SOFTWARE LICENSE

A. License Type:

DMAS is a state agency of the Commonwealth of Virginia, and therefore if applicable, any license purchased or assigned to DMAS, shall be held by the Commonwealth. The licenses described in this Contract shall be of the following license type:

“Term License”: During the Term of this Contract, Supplier hereby grants to the Commonwealth a limited, non-exclusive, non-transferable, license for DMAS and its Solution Users to access and use the Solution, Application & Cloud Services, either via the Internet (units of the Solution hosted by the Supplier or its vendor) on servers owned, operated, housed, and maintained by Supplier (or its vendor), for DMAS’s internal business purposes, subject to the license terms and restrictions set forth in Exhibit G, Cloud Services – Additional Terms and Conditions attached to this Contract and incorporated by reference herein.

The parties agree that as of the Effective Date, while the Solution includes none of such software, Software, or Application shall be licensed directly for DMAS from the software publisher through a separate End User Licensing Agreement (EULA) and therefore, none of the provisions of the License Agreement Addendum (LAA) attached hereto as Exhibit D shall apply. Notwithstanding the foregoing, if and to the extent the parties enter into an Amendment to this Contract and agree, as part of that Amendment, that certain software, Software, or Application from a Software Publisher must be licensed directly to DMAS, Supplier shall have sole responsibility for ensuring that any such software publisher executes the LAA, subject to any changes to the LAA that may be mutually agreed upon as part of such Amendment. The software publisher's EULA, along with the LAA executed by Software Publisher shall be added to Exhibit D for reference, but shall not become a part of this Contract.

Nothing contained herein shall be construed to restrict or limit the rights of the DMAS to use any technical data, which DMAS may already possess or acquire under proper authorization from other sources

B. No Subsequent, Unilateral Modification of Terms by Supplier (“Click Wrap”)

Notwithstanding any unilateral license terms which may be issued by Supplier after the Effective Date of this Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of this Contract, including access to the Application(s), or the fact that such other agreement may be presented to DMAS or its Solution Users at the time of accessing the Application(s) (“click wrap”), the terms and conditions set forth herein shall supersede and govern licensing and use of the Solution, except as otherwise stated in the Contract and/or its Exhibits.

7. RIGHTS TO WORK PRODUCT

DMAS is a state agency of the Commonwealth of Virginia, therefore, any license to Supplier Technology or Supplier Technology shall be held by, and all rights in, title to, and ownership of Work Product shall vest with the Commonwealth.

A. Work Product

DMAS and Supplier each acknowledge that performance of this Contract may result in Work Product. The Parties shall document all Work Product specifications and such specifications shall be made an incorporated exhibit to this Contract or included in an Accepted Deliverable. Supplier agrees that, upon completion thereof, it shall promptly

and fully disclose to the Commonwealth or the DMAS any and all Work Product created by Supplier, any of its employees or subcontractors, either solely or jointly with others, during the term or performance of this Contract, for delivery to the Commonwealth or DMAS. Supplier further agrees that neither Supplier nor Supplier's employees, contractors, agents or subcontractors, nor any party claiming through Supplier or Supplier's employees, shall, other than in the performance of this Contract, make use of or disclose to others any Work Product. All Custom Software provided hereunder shall include delivery in accordance with this Section of all (re)useable source and object code and all executables and documentation that are Work Product. Supplier shall at no time deny access to the Work Product, regardless of form, by the Commonwealth or the DMAS, provided that incomplete or draft Work Product shall be accessed on an as-is basis, without warranty of any kind.

B. Ownership

Supplier agrees that, whether or not the Services are considered "works made for hire" or an employment to invent, all Work Product discovered, created or developed under this Contract shall, upon payment therefore according to the mutually agreed upon milestone payment schedule and fixed payments thereafter, be and remain the sole property of the Commonwealth and its assignees. Except as specifically set forth in writing and signed by both DMAS and Supplier, Supplier agrees that the Commonwealth shall have all rights with respect to any Work Product discovered, created or developed under this Contract without regard to the origin of the Work Product. In all instances, the Commonwealth of Virginia owns any software designed, developed, installed, or enhanced with 90 % Federal Financial Participation (FFP). Upon payment as stated above, CMS has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use and authorize others to use for federal government purposes, software, modifications to software, and documentation that is designed developed, installed or enhanced with 90% FFP.

If and to the extent that Supplier may, under applicable law, be entitled to claim any ownership interest in the Work Product, Supplier hereby irrevocably transfers, grants, conveys, assigns and relinquishes exclusively to the Commonwealth any and all right, title and interest it now has or may hereafter acquire in and to the Work Product under patent, copyright, trade secret and trademark law in perpetuity or for the longest period otherwise permitted by law. If any moral rights are created, Supplier waives such rights in the Work Product. Supplier further agrees as to the Work Product to assist the Commonwealth in every reasonable way to obtain and, from time to time, enforce patents, copyrights, trade secrets and other rights and protection relating to the Work Product, and to that end, Supplier and its employees shall execute all documents for use in applying for and obtaining such patents, copyrights, and other rights and protection, and in protecting trade secrets, with respect to such Work Product, as the Commonwealth may reasonably request, together with any assignments thereof to the Commonwealth or entities designated by the Commonwealth.

C. Pre-existing Work

If and to the extent that any Supplier Technology are embodied or reflected in the Work Product, Supplier hereby grants to the Commonwealth the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license to (i) use, execute, reproduce, display, perform, distribute copies of and prepare derivative works based upon such Supplier Technology and any derivative works thereof, under this Contract, and (ii) authorize others to do any or all of the foregoing on its behalf. It is expressly understood that "perpetual"

license rights shall commence upon delivery of the Work Product and shall exist in perpetuity unless otherwise terminated in accordance with the applicable provisions of the Contract, except as otherwise agreed in this Contract & its Exhibits.

D. Return of Materials

Upon termination of this Contract, Supplier shall immediately return to DMAS all copies, in whatever form, of any and all Confidential Information, Work Product and other properties provided by DMAS, which are in Supplier's possession, custody or control, except that Supplier may retain copies as required for compliance with relevant laws and regulations, and as stated in the Business Associate Agreement.

8. GENERAL WARRANTY

Supplier warrants and represents to DMAS that Supplier will fulfill its contractual obligations during the entirety of the Contract Term as defined in Paragraph 3(A) and as described in Exhibit A as follows:

A. Ownership; Solution Warranty

Supplier has the right to perform and provide all contractual obligations and provide all specified services and products without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third party enforceable in the United States.

Supplier warrants that during the Maintenance Coverage Period (the "warranty period"), the unit of the Solution as authorized and provided by Supplier under this Contract shall meet or exceed the Requirements. Supplier shall correct, at no additional cost to DMAS, as a part of its Maintenance Services, all errors and Defects identified during the warranty period that result in Supplier's failure to meet the Requirement.

No corrections, changes, workarounds or future Components or units of the Solutions, or future releases provided by Supplier under the warranty provisions or under maintenance shall degrade the Solution/Services/Cloud Services, cause any other warranty to be breached, or require DMAS to acquire additional hardware equipment or software.

B. Limited Warranty

Intentionally Left Blank.

C. Component & Application Warranty

The warranties for Components and the Application shall only begin to apply once a Component or the Application has been accepted and deployed into a production environment.

D. Interoperability Warranty

Upon deployment of the Solution, Supplier warrants during the entirety of the contract that each unit of the Solution or any other portion of the Solution, delivered under this Contract, is interoperable with other units of the Solution, so as to meet or exceed the Requirements. Supplier shall correct any instance in which a unit of the Solution or any other portion of the Solution (regardless of the origin of the unit of Solution) is not interoperable with other units of the Solution; such lack of interoperability occurs when units of the Solution do not meet or exceed the performance requirements specified in the applicable Requirements for such unit of the Solution or portion of the Solution, pursuant to the terms of the Contract.

E. Performance Warranty

Supplier warrants and represents the following with respect to Performance:

- i. All contractual obligations of Supplier shall be performed by Supplier with care, skill and diligence, consistent with or above applicable professional standards currently recognized in Supplier's profession, and Supplier shall be responsible for the professional quality, technical accuracy, completeness, and coordination of all plans, information, specifications, Deliverables and Services furnished by Supplier under this Contract;
- ii. Supplier is possessed of industry standard knowledge with respect to its contractual obligations and is aware that DMAS is relying on Supplier's skill and judgment in providing its contractual obligations.

F. Documentation and Deliverables

Supplier warrants the following as applicable to the Contract:

- i. Supplier is possessed of superior knowledge with respect to the Solution of Software and is aware that DMAS is relying on Supplier's skill and judgment in providing the Solution or Software;
- ii. Supplier warrants that the Documentation and all modifications or amendments thereto which Supplier is required to provide under this Contract shall, upon delivery, be sufficient in detail and content to allow a user/programmer to understand fully the Solution or Solution Component or to load/use/operate the Custom Software without reference to any other materials or information.

G. Malicious Code

Supplier has used its best efforts through quality assurance procedures to ensure that there are no Computer Viruses or malicious code in any applicable Unit of the Solution, Custom Software and/or Supplier Technology, as provided by Supplier under this Contract. Supplier warrants that the Custom Software and Supplier Technology, as provided by Supplier under this Contract does not contain any embedded device or code (e.g., time bomb) that is intended to obstruct or prevent any Authorized User's use of the Custom Software, or Supplier Technology.

Notwithstanding any rights granted under this Contract or at law, Supplier hereby waives under any and all circumstances any right it may have or may hereafter have to exercise Electronic Self-Help in any Work Product. Supplier agrees that DMAS may pursue all remedies provided under law in the event of a breach or threatened breach of this Section, including injunctive or other equitable relief.

H. Open Source

Supplier will notify DMAS if the Solution, Solution Components, Deliverables, Product, Custom Software, Updates, Application, as provided by Supplier, contains any Open Source code and identify the specific Open Source License that applies to any embedded code dependent on Open Source code, provided by Supplier under this Contract. Supplier is not required to identify Open Source code that may be included in (a) third party COTS software included in the Solution or (b) the Cloud Services.

At the time of execution, Supplier affirms that no open source code needs to be disclosed under this Section.

I. Supplier's Viability

Supplier warrants that it has the financial capacity to perform and continue to perform its obligations under this Contract; that Supplier has no constructive or actual knowledge of a potential legal proceeding being brought against Supplier that could materially adversely affect performance of this Contract; and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

J. Supplier's Past Experience

Supplier warrants that it has met similar contractual obligations and fulfilled the Requirements as set forth in Exhibit A and in this Contract, in similar or greater complexity, to other customers without significant problems due to Supplier's performance and without causing a contractual breach or default claim by any customer. If Supplier cannot meet the terms of this Section, then Supplier must disclose the contractual breach or default claims and actions taken to remedy such breach/default to DMAS' satisfaction.

K. Exclusions

Supplier shall have no obligation or liability under this Section 8 or Section 15.A(ii) of Exhibit G to the extent that a Defect directly results from (i) modifications to any Deliverable or the Solution that are caused by DMAS, its agents or contractors; (ii) DMAS' failure to use any new or corrected versions of the item made available by Supplier and approved by DMAS; (iii) Supplier's adherence to DMAS' specifications or instructions; (iv) the quality or integrity of data from other automated or manual systems with which the Solution interfaces and the Supplier does not change, modify, or alter the data from the original source; or (v) hardware, systems software, telecommunications equipment or software not a part of the Solution which is inadequate to allow proper operation of the Solution or which is not operating in accordance with the manufacturer's specifications. Supplier does not warrant that the operation of software, hardware, equipment or Deliverables provided by Supplier will be uninterrupted or error-free.

L. Third Party Software

To the extent Supplier has the legal right to do so, Supplier agrees to assign or pass through to DMAS or otherwise make available for the benefit of DMAS, any manufacturer's or supplier's warranty applicable to any third-party software, hardware or equipment provided by Supplier. Supplier does not itself give or make any warranty of any kind with respect to third-party software, hardware or equipment that is not implemented, used, or a Component of the Supplier's Solution.

M. DISCLAIMER

THE OBLIGATIONS OF SUPPLIER UNDER THIS GENERAL WARRANTY SECTION ARE MATERIAL. SUPPLIER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY CONCERNING MERCHANTABILITY OR FITNESS FOR ANY OTHER PARTICULAR PURPOSE.

9. DELIVERY AND INSTALLATION

A. Scheduling

Supplier shall deliver the Solution, including any Component parts, and complete performance of Services according to the delivery dates set forth in the Contract or as

modified by any Contract Modification agreed to and executed by the parties or by the mutually-agreed project Work Plan.

Supplier shall make available all appropriate and/or related Documentation at the time of delivery of the relevant unit of the Solution, or as otherwise set forth in the mutually-agreed Work Plan.

B. Deployment of Solution

1. Supplier Deployment of Solution

The Solution fee includes initial deployment of the complete Solution. Supplier is required to deploy the Solution in accordance with the deployment schedule set forth in the Contract or as otherwise stated in the mutually agreed upon Work Plan. Deployment shall include the installation of any unit of the Solution and/or Cloud Services. Supplier shall conduct its standard appropriate diagnostic evaluation at the agreed upon site to determine that the Solution is properly deployed and fully ready for productive use, and shall supply DMAS with a copy of the results of the diagnostic evaluation promptly after completion of each phase of the deployment, as stated in the mutually-agreed upon Work Plan.

Supplier agrees that failure to deploy the Solution in accordance with the delivery schedule in the applicable Contract (or as otherwise agreed to in the mutually agreed upon Work Plan), due to fault of the Supplier or the Supplier's Solution, shall constitute a breach of this Contract resulting in damages to DMAS. As an estimate of the damages that DMAS shall suffer, Supplier shall credit DMAS an amount equal to one quarter of one percent of DDI Services cost for each day after the scheduled deployment date that the Solution has not been deployed, up to a period of thirty (30) days following the agreed upon delivery date. If the delay lasts longer than thirty (30) days, DMAS may pursue its termination rights & remedies under this Contract. DMAS reserves any and all other remedies available at law or in equity for any such delays beyond such thirty (30) days or for non-deployment, provided that any damages that may be awarded as a result of any such delays shall be reduced by any credits assessed hereunder.

2. DMAS Installation of software

If the Solution includes software which may be installed by DMAS and DMAS elects to install the software itself, the software shall be deemed to be installed when all programs, program libraries and user interfaces are copied to and initialized on the appropriate equipment as executable by having DMAS invoke the primary function of each major Component of the software or when Acceptance Criteria have been met. DMAS shall provide to Supplier written notice of completion of installation and successful Acceptance testing by DMAS of its own installation. Supplier shall proceed with full deployment of the Solution concurrently with or after DMAS' installation of the software, as agreed between DMAS and Supplier in writing.

C. Documentation of Application Configuration

If the Services include configuration of Application by Supplier, Supplier shall provide to DMAS Documentation containing a description of the configuration. Such Documentation shall be sufficiently detailed such that any appropriately trained employee or Agent of DMAS may reconstruct the configuration of the Application.

D. Managed Environment

DMAS is establishing and building a multi-provider, integrated services platform (the "**Integrated Services Platform**" or the Medicaid Enterprise System [MES]) for the delivery of certain IT services to DMAS and the other Business Partners within the IT environments supported by DMAS (collectively, the "**Managed Environment**"), as is further described in DMAS issued RFP 2016-04 (Section 1.e, "Future State") and by further notice from DMAS to Supplier from time to time. The Integrated Services Platform is and shall comprise various services provided by various third party suppliers, including the Services and Supplier (each such supplier, including the Supplier for this Contract, an "**Integrated Supplier**"), with which DMAS shall contract from time to time to provide services to DMAS and other Business Partners and Customers. The Managed Environment requires coordination, cooperation and integration among the Integrated Suppliers, notwithstanding that they may otherwise view themselves as competitors, in order to work together toward the common goal of uninterrupted, high quality services to DMAS, Business Partners, and the other Customers. In this regard, Integrated Supplier must perform the Services and its other obligations under this Contract and in connection therewith, interact and cooperate with others within the Managed Environment in a manner that, as a foremost guiding principle, first considers the best interests of DMAS and the other Business Partners. In connection with Supplier's role as an Integrated Supplier within the Managed Environment, Supplier acknowledges and agrees to the following.

In performing the Services, Integrated Supplier shall fully cooperate with and work in good faith with DMAS and the other Business Partners and other Integrated Suppliers to support and promote the operation and objectives of the Integrated Services Platform. Such cooperation may include, in addition to other provisions reflected in this Contract or requested by DMAS: (i) timely providing physical access and electronic access to business processes and associated Equipment, Materials and/or Systems to the extent necessary and appropriate for Business Partners, Customers or other Integrated Suppliers to perform the work required of or assigned to them; (ii) timely providing written requirements, standards, policies or other documentation for the business processes and associated equipment, materials or systems procured, operated, supported or used by Integrated Supplier in connection with the Services; (iii) timely providing access to DMAS Data to Business Partners and/or other Integrated Suppliers; (iv) timely providing cooperation and assistance in connection with Transition Out Assistance to facilitate the orderly transfer of terminated Services from Integrated Supplier to Business Partners and/or other Integrated Suppliers in accordance with this Contract and the agreed upon Transition Plan provided by the Supplier and approved by DMAS and; (v) establishing procedures and other arrangements with other Integrated Suppliers to ensure continuity of seamless service (including the Services) to the Business Partners and (vi) any other cooperation or assistance reasonably necessary for the Business Partners and/or other Integrated Suppliers to perform their operations and activities. As part of the cooperation and participation of Integrated Suppliers in the Managed Environment, the Integrated Services Platform may include the development and utilization of a Service Management Manual and Operating Level Agreements as follows:

- i. **Service Management Manual.** As part of the Integrated Services Platform, Supplier shall develop a Service Management Manual standard template (the "**Service Management Manual**") which shall serve as a common document shared (as applicable) among the Integrated Suppliers (including Supplier for this agreement) providing descriptions of the Managed Environment and the performance by each Integrated Supplier of its respective obligations to DMAS in coordination and cooperation with the Business Partners and other Integrated Suppliers. Each Integrated Supplier will only be responsible for

completing the sections of the manual that relate to the services to be provided by that Integrated Supplier. The Services Management Manual is further described in **Section 9.D.2 (Service Management Manual)**. Until the adoption of the Service Management Manual, the Parties shall utilize the Policy and Procedures Manual in accordance with **Section 9.D.1 (Policy and Procedures Manual)**.

- ii. **Operating Level Agreements.** Supplier shall enter into mutually agreed joint governance and issue resolution document(s), including operating level agreements with other Integrated Suppliers. The joint governance and issue resolution document(s), including operating level agreements, shall meet the Requirements. Operating Level Agreements are further described in **Section 9.D.3 (Operating Level Agreements)**.

In no event will any provision of this Agreement, or any right or benefit of DMAS or the Business Partners and Customers provided for under this Agreement, be reduced, limited or otherwise adversely affected (including through any increase in cost, charge or expense) as a consequence of the terms of the Service Management Manual or any Operating Level Agreement.

D.1 Policy and Procedures Manual. Without limiting the foregoing, until the Service Management Manual has been implemented by agreement of the Parties in accordance with **(e) (Transition to Service Management Manual)**, the following shall apply.

- a) **Policy and Procedures Manual Delivery and Content.** Supplier shall deliver to DMAS for its review, comment and written approval a template of its Policy and Procedures Manual within 6 weeks after the Effective Date. The contents of the manual described may have been documented under other Deliverables provided by this Contract; for all content that is being provided in other deliverables, the manual may simply contain a cross-reference to that deliverable and the section within that Deliverable. The final Policy and Procedures manual will be delivered, reviewed and accepted based on a mutually agreed upon schedule finalized during development of project milestones and Deliverables list.

At a minimum, the Policy and Procedures Manual shall include:

- i. the procedures for Business Partner and Customer/Supplier interaction and communication, including: (A) call lists; (B) procedures for (and limits on) direct communication by Supplier with Business Partner and Customer personnel; (C) problem management and escalation procedures; (D) priority and project procedures; (E) Acceptance testing and procedures; (F) quality assurance processes and procedures and internal controls; (G) the Project formation and approval process; (H) a schedule, format and required attendees for meetings regarding performance reporting, account relationship management, issues management, risk management, request management and financial management; (I) Change Control Procedures; and (J) Disaster Recovery/Business Continuity plans;
 - ii. the root cause analysis process; and
 - iii. practices, policies and procedures addressing any other issues and matters as DMAS shall require.
- b) **Compliance.** Supplier shall perform the Services in accordance with applicable Laws, DMAS Rules and DMAS's then current policies and procedures until the Policy and Procedures Manual is finalized and agreed upon by the Parties. Thereafter, Supplier shall perform the Services in accordance with the Policy and Procedures Manual, all applicable Laws and all other terms and conditions of

this Contract. In the event of a conflict between this Contract and the Policy and Procedures Manual, the Contract shall take precedence.

- c) Maintenance, Modification and Updating. Supplier shall promptly modify and update the Policy and Procedures Manual to reflect changes in the operations or procedures described therein, to reflect changes in the work to be performed, and to comply with DMAS Rules. The Supplier shall provide the proposed changes in the manual to DMAS for review, comment and written approval. Supplier shall maintain the Policy and Procedures Manual so as to be accessible electronically to DMAS and Business Partner and Customer management and Users via a secure web site in a manner consistent with DMAS's security policies.
- d) Regular Review. The Parties shall meet to perform reviews of the Policy and Procedures Manual as reasonably requested by DMAS.
- e) Transition to Service Management Manual. As requested by DMAS, Supplier shall work with DMAS to supersede the Policy and Procedures Manual with the Service Management Manual in connection with DMAS's further development and operation of the Managed Environment. If and to the extent the Policy and Procedures Manual is superseded by the Service Management Manual, Supplier shall comply with the Service Management Manual and cooperate with DMAS and its designee(s) in its maintenance and development. Until such time as the Service Management Manual shall have superseded the Policy and Procedures Manual in accordance with the foregoing and unless otherwise provided, or the context shall otherwise require, references in this Agreement to the Service Management Manual shall be deemed references to the Policy and Procedures Manual.
- f) Work Product. As between the Parties, the Policy and Procedures Manual will be deemed to be a Work Product owned by DMAS as provided in Section 7.

D.2 Service Management Manual

- a) Upon its adoption by DMAS, the Service Management Manual will serve as a common document shared among the Integrated Suppliers, which all will operate in accordance with and be subject to the terms therein, as applicable to each such party. Each Integrated Supplier, including the Supplier for this Contract, will add content to the manual as applicable to the Solution and Services provided by each Integrated Supplier. The contents of the manual described below may have been documented under other Deliverables provided under this Contract; for all content that is being provided in other deliverables, the manual may simply contain a cross-reference to that deliverable and the section within that Deliverable. Among other things, the Service Management Manual will provide detailed descriptions of the Managed Environment and the manner in which functions will be performed by the Integrated Supplier and each of the other Integrated Suppliers, including:
 - i. Equipment, Materials and Systems to be procured, used or supported;
 - ii. Documentation (including manuals, user guides and specifications) to be created and/or maintained by the Integrated Supplier and the other Integrated Suppliers;
 - iii. specific activities to be undertaken by the Integrated Supplier in connection with each Service, including, where appropriate, the direction, supervision, monitoring, staffing, reporting, planning and oversight activities to be performed by the Integrated Supplier under this Agreement;
 - iv. Operational Change Control Procedures and Contract Change Control Procedures;
 - v. procedures for DMAS, Business Partners and the Integrated Suppliers to interact, communicate, escalate and resolve issues, exchange information and provide

- access to each other;
 - vi. checkpoint reviews, testing, acceptance, controls and other procedures to be implemented and used to assure service quality;
 - vii. processes, methodologies and controls to be implemented and used by the Integrated Suppliers to comply and confirm compliance with (1) DMAS Rules; and (2) other obligations in the applicable agreements, including compliance with Laws; and
 - viii. other provisions related to the Managed Environment, as requested by DMAS.
- The Service Management Manual will be initially created and continuously updated and enhanced throughout the Term. The Service Management Manual, and any updates thereto, will be subject to DMAS's approval.
- b) The Integrated Supplier will perform the Services in accordance with the most recent DMAS-approved version of the Service Management Manual.
 - c) As between the Parties, the Service Management Manual will be deemed to be a Work Product owned by DMAS as provided in Section 7.

D.3 Operating Level Agreements

- a) Among other things, Operating Level Agreements will:
 - i. govern how the parties thereto coordinate activities, interact and integrate processes, ensure that there are no gaps or unnecessary duplication of responsibility, and will define at an operating level the demarcation of Functions and the touch points between such parties; and
 - ii. otherwise describe key dependencies between such parties.
- b) The Supplier will execute an Operating Level Agreements with any applicable Integrated Suppliers.
- c) The Supplier will ensure that all Operating Level Agreements to which it is a party current and consistent with all other relevant documentation (e.g., the Service Management Manual, DMAS Rules).
- d) Each Operating Level Agreement will be subject to DMAS's review, comments and approval. In order for any amendment to an Operating Level Agreement to become effective, such amendment must be reviewed and approved in writing by DMAS.

10. ACCEPTANCE

A. Deliverable Acceptance Criteria

Deliverables shall be accepted when DMAS determines that such Deliverables successfully operate in accordance with the Requirements, and DMAS notifies Supplier in writing of its acceptance or rejection on the basis of Contract & Requirements (the "Acceptance Criteria for Software and Deliverables" and "Acceptance Criteria for the Solution" as described in "Quality Assurance/Test Management Plan") within the timeframes established in such documentation and the Work Plan. At a minimum, Acceptance Criteria for Deliverables, and for the Solution as a whole, shall include all of the functionality described in the applicable Requirements set forth in Exhibit A and required by DMAS has been delivered to DMAS, unless DMAS elects to proceed without the full functionality described in the Requirements. Acceptance of any one Deliverable shall not imply DMAS' concurrence that the Deliverable will function properly with or within the Solution. Supplier shall be responsible for ensuring that all Deliverables function properly within the Solution in accordance with the applicable Requirements. Should a previously Accepted Deliverable require further modification in order to meet its Acceptance Criteria for Deliverables with or within the Solution, as identified as part of either another Deliverable's acceptance process or the Solution's acceptance process, Supplier shall be responsible for all costs associated with such modification.

DMAS agrees to commence and conduct Acceptance testing in accordance with the agreed upon Work Plan and the DMAS approved Quality Assurance/Test Management Plan. Supplier agrees to provide to DMAS such assistance and advice as DMAS may reasonably require, at no additional cost, during such Acceptance testing, other than pre-approved travel expenses. Any such travel expenses must be pre-approved by DMAS at the then-current per diem amounts as published by the Virginia Department of Accounts (http://www.doa.virginia.gov/Admin_Services/CAPP/CAPP_Topics/20335_Meals_Lodging_102008.pdf), or a successor URL(s)). DMAS shall provide to Supplier written notice of Acceptance upon completion of successful Acceptance testing. Should DMAS fail to provide Supplier written notice of successful or unsuccessful Acceptance testing within five (5) days following the Acceptance testing period, the software and Deliverables shall be deemed Accepted.

B. Deliverable Cure Period

Supplier shall correct any Defects (also referred to as “non-conformities” in this Section 10) identified during Acceptance testing and re-submit such previously non-conforming Software or Deliverable for re-testing in accordance with the timeframes set forth in the mutually agreed upon Acceptance Criteria regarding non-conformity, or as otherwise agreed between DMAS and Supplier. Should Supplier fail to either cure the non-conformity or deliver a Deliverable which meets the Requirements after a second set of required Acceptance tests, DMAS may, in its sole discretion: (i) reject the Deliverable in its entirety and recover amounts previously paid for it hereunder; (ii) issue a “partial Acceptance” of the Deliverable with an equitable adjustment in the price to account for such deficiency; or (iii) conditionally accept the applicable Deliverable while reserving its right to revoke Acceptance if timely correction is not forthcoming. Failure of the Deliverable to meet, in all material respects, the Requirements after the second set of required Acceptance tests may constitute a default by Supplier. In the event of such default, DMAS may, at its sole discretion, terminate the Contract in accordance with Section 3.C, above. All costs of de-installation and return of Deliverables shall be borne by Supplier. This remedy is in addition to and not in lieu of any other remedies of Agency set forth herein or available at law or in equity.

C. Solution Acceptance Criteria

Solution shall be accepted by DMAS when DMAS determines that such Solution successfully operates in accordance with the Contract & Solution Requirements (the “Solution Acceptance Criteria”). In order to establish acceptance of the Solution to determine the operational readiness of the Solution to go into full production and complete the DDI phase, DMAS agrees to perform Acceptance testing in accordance with the timeframes specified in the agreed upon Work Plan and the DMAS and Supplier approved Quality Assurance Plan/Test Plan, or such longer period as may be agreed in writing between DMAS and Supplier. Supplier agrees to provide DMAS such assistance and advice as such DMAS may reasonably require, at no additional cost, during such Acceptance testing, other than pre-approved travel expenses. Any such travel expenses must be pre-approved by DMAS and shall be reimbursable by DMAS at the then-current per diem amounts as published by the Virginia Department of Accounts (http://www.doa.virginia.gov/Admin_Services/CAPP/CAPP_Topics/20335_Meals_Lodging_102008.pdf), or a successor URL(s)). DMAS shall provide to Supplier written notice of Acceptance upon completion of Acceptance testing by the end of the Work Plan timeframe for Acceptance testing, or such longer period as may be agreed in writing between DMAS

and the Supplier. Deeming shall not be acceptable for the final Solution Acceptance Criteria.

D. Solution Cure Period

Supplier shall correct any non-conformities identified hereunder and shall thereafter re-submit such previously non-conforming Solution or Component for re-testing to determine whether such non-conformities have been cured in accordance with the timeframes set forth in the mutually agreed upon Acceptance Criteria regarding non-conformity, or as otherwise agreed between DMAS and Supplier. Should Supplier fail to deliver a Solution which meets the Requirements after a second set of required Acceptance Tests, DMAS may, in its sole discretion, reject and return the Solution in its entirety and pursue remedies hereunder and at law, or (ii) conditionally accept the applicable Solution while reserving its right to revoke Acceptance if timely correction is not forthcoming, including invoking warranty provisions of this Contract and Exhibit G. Failure of the Solution to meet, in all material respects, the specifications and performance standards/Requirements after the second set of acceptance tests may constitute a default by Supplier. In the event of such default, DMAS may, at its sole discretion, terminate this Contract in accordance with Section 3.C, above. All costs of de-installation and return of the Solution shall be borne by Supplier. This remedy is in addition to and not in lieu of any other remedies of DMAS set forth herein or available at law or in equity.

11. WARRANTY AND MAINTENANCE SERVICES

Supplier shall provide the following warranty and/or maintenance services (including unlimited telephonic support and all necessary travel and labor) to maintain the Solution in accordance with the Requirements. During the DDI phase, such services shall be performed without additional charge to DMAS. During the O&M Period, including that portion that overlaps with the DDI phase, charges shall be in accordance with this Section and Exhibit B.

A. Known Defects

Promptly notify DMAS in writing of any defects or malfunctions in the Solution or Documentation of which it learns from any source, correct any such defects or malfunctions or provide a work around until corrected, within a timeframe that shall be appropriate to the complexity and severity of the matter beginning upon Supplier's knowledge of such defect or malfunction and provide DMAS with corrected copies of same.

Supplier shall correct, as part of the Maintenance Services provided pursuant to warranty, Defects, provided that (i) the Defects are identified to Supplier in writing, with sufficient detail, during the Maintenance Coverage Period, (ii) Supplier's obligation to fix such identified Defects ends at the end of the Maintenance Coverage Period, and (iii) Supplier shall utilize staff as appropriate to perform the Maintenance Services regardless of planned staffing plan.

Note that Supplier's inability to correct any Defect shall not relieve Supplier from meeting any other timeframes required under the Contract.

B. New Releases

Provide to DMAS no later than the first day of general release, copies of the Supplier Technology and Documentation revised to reflect any enhancements, including all new releases, upgrades, and access modes, to the Software made by Supplier, including, without limitation, modifications to the Supplier Technology which can increase the speed,

efficiency or base of operation of the Software or add additional capabilities to or otherwise improve the functionality of the Supplier Technology, with the understanding that new releases for the portions of Supplier's Solution that consist of third party owned, Commercial Off the Shelf (COTS) Software would be made available as part of Supplier's Solution on a mutually agreed upon time frame.

C. Coverage

Supplier shall provide to DMAS all reasonably necessary telephone or written consultation requested by DMAS in connection with use, problems and operation of the Solution, consistent with the portion of Supplier's Technical Proposal addressing Hours of Operation Requirements, and Requirement ISS-SR-HOP-001. The Supplier will provide end user telephone consultation and email support (the "Help Desk Support") during the hours of 6:00AM-8:00PM (Eastern Time), Monday through Friday excluding official Commonwealth of Virginia closed holidays (the "Help Desk Hours"). Additional Help Desk support outside of the Help Desk Hours can be arranged in advance to support DMAS during anticipated high-need periods. Critical issue system support, defined as handling any critical system availability issues, will be provided on a 24X7X365 basis by the Supplier.

D. Service Levels

Supplier shall respond to problems with the Solution identified by DMAS in no more than one (1) hour after notification during normal "Hours of Operations" as described in the Supplier's Technical Proposal. Supplier shall resolve all problems in accordance with applicable SLAs.

The level of severity (e.g., 1, 2, 3, 4), shall be defined by DMAS via approval of the Supplier's "Quality Management Plan" and "Risk and Issues Management Plan", which includes the escalation management plan, during the DDI phase. Service levels will not be assessed until one month following the beginning of the O&M period and as described in Section 12 of Exhibit G.

E. Application Evolution

Should Supplier merge or splinter the Application or other units of the Solution/Cloud Services previously provided to DMAS, such action on the part of Supplier shall not in any way result in DMAS being charged additional license or support fees in order to access the Solution/Cloud Services, to enable its Solution Users to access the Application/units of the Solution or Cloud Services pursuant to the applicable license terms hereof, or to receive enhancements, releases, upgrade or support for the Software.

F. Escalation Procedures

- i. At the written request of either Party, the Parties will attempt to resolve any dispute arising under or relating to the Contract through the informal means described in this Section 11.F. The Parties agree to work together in good faith to resolve any matters relating to the Contract internally by working through issues with the Parties' respective project manager, then escalating issues to Supplier's Virginia Account Executive, the DMAS Director of Information Management Division & DMAS Director of Project Management Office. Each Party will furnish to each other all non-privileged information with respect to the dispute that the Parties believe to be appropriate and germane.
- ii. In the event the issue cannot be resolved within a reasonable time by the Supplier's Virginia Account Executive and the DMAS Director of Information Management Division & DMAS Director of Project Management Office, the issue shall be

escalated to Supplier's Vice President and the DMAS Deputy Director of Finance, or other senior management representatives who do not devote substantially all of his or her time to performance under the Contract (collectively the "Dispute Representatives"). The Dispute Representatives will negotiate in an effort to resolve the dispute without the necessity of any formal proceeding.

- iii. Paragraphs 1 & 2 of this Section shall not be required in the event of any expirations of applicable filing limitations, equitable relief periods, or rights of either Party would be adversely affected by following the process contained above.

G. Remedies

If Supplier is unable to make the Solution or any Component thereof conform, in all material respects to the Contract, within sixty (60) days following written notification by DMAS and provided that the failure is due to the Supplier's Solution, Supplier shall (a) return any monies paid by DMAS for the non-conforming returned Solution Component(s) and/or Documentation or (b) return all monies paid by DMAS for the non-conforming returned Solution Components and Documentation DMAS shall discontinue use of any Solution Component Software or product that the Supplier is unable to make conform to the Requirements of the Contract.

H. Solution Support Services (Maintenance) and Renewal Options

Supplier shall provide Solution Support Services (Maintenance) during the entirety of the Contract.

12. FEES, ORDERING AND PAYMENT PROCEDURE

A. Fees and Charges

As consideration for the Solution and any additional products and Services and Cloud Services provided hereunder, DMAS shall pay Supplier the fee(s) set forth on Exhibit B, which lists any and all fees and charges. The fees and any associated discounts shall be applicable throughout the term of this Contract; provided, however, that the proposed hourly rates may increase, but no more than once during any twelve (12) month period, commencing at the end of year one (1). No such increase shall exceed the lesser of three percent (3%) or the annual increase in the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, All Items, Not Seasonally Adjusted, as published by the Bureau of Labor Statistics of the Department of Labor (<http://www.bls.gov/cpi/home.htm>), for the effective date of the increase compared with the same index one (1) year prior. Any such change in price shall be submitted in writing in accordance with the above and shall not become effective for sixty (60) days thereafter.

B. Reproduction Rights

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C. Reimbursement of Expenses

For travel outside the Contract scope of work or as mutually agreed, DMAS shall pay, or reimburse Supplier, for all reasonable and actual travel-related expenses incurred by Supplier during the relevant period, including transportation, meals, lodging and incidental expenses, that have been authorized by DMAS in advance and which will be reimbursable by DMAS at the then-current per diem amounts as published by the Virginia Department of Accounts (<http://www.doa.virginia.gov/>, or a successor URL(s)). All reimbursed expenses will be billed to DMAS on a pass-through basis without any markup by Supplier. At DMAS' request, Supplier shall provide copies of receipts for all travel expenses over US\$30.00.

D. Change Orders

Any change to the Contract's original technical and functional Requirements or other contractual obligations must be described in a written change request. Any such change request shall be accompanied by a formal quote from the Supplier, based on the authorized fees in Exhibit B, Pricing Schedule. The change request shall include (a) a detailed description of each product or service proposed, including such product and services components, at the Exhibit B line item level, (b) the quantity of each such component, (c) the contract price, (d) any additional percentage discount offered, and (e) an extended price. Supplier's quote shall also include a proposal describing the approach Supplier plans to take in developing, implementing, and maintaining its offering. Either Party may issue a change request that will be subject to written approval of the other Party before it becomes part of this Contract as a formal modification to the Contract. In no event shall any change request or modification thereto require the Supplier to provide any products or services that are beyond the scope of this Contract as such scope is defined in Exhibit A hereto.

Supplier acknowledges that the "Master Implementation Plan" and all projects contained therein, are subject to change and availability of other Integrated Suppliers during the DDI phase. Supplier shall not be entitled to a change order due to schedule adjustments within this timeframe, provided Supplier can still perform all of its DDI Services within thirty (30) months from the Effective Date. Supplier's obligation to comply with any changes to federal laws, regulations, or requirements pursuant to this Contract does not automatically entitle Supplier to a change order. In the event that a change to a state law, regulation, or policy that substantially changes the scope of this Contract, the Supplier shall be entitled to a reasonable change order to address such impacts.

E. Ordering

Supplier is required to accept any order placed by DMAS hereunder through the eVA electronic procurement website portal (eVA Home Page). eVA is the Commonwealth of Virginia's e-procurement system. State agencies, as defined in §2.2-2006 of the Code of Virginia, shall order through eVA.

Notwithstanding the foregoing, Supplier shall not accept any order from DMAS if such order is to be funded, in whole or in part, by federal funds and if, at the time the order is placed, Supplier is not eligible to be the recipient of federal funds as may be noted on any of the Lists of Parties Excluded from Federal Procurement and Non-procurement Programs.

A single order for the base Contract period will be issued in eVA.

F. Invoice Procedures

Supplier shall remit each invoice via email to BCMinvoices@dmass.virginia.gov and the identified DMAS Contract Administrator. During the DDI phase, Supplier will submit invoices promptly after the applicable Solution, Solution component(s), or Deliverable has been accepted and in accordance with the milestone payment schedule in Exhibit B. During the M&O phase, payment for the Maintenance Services shall be monthly in arrears unless otherwise stated herein, or in any order referencing this Contract. No invoice shall include any costs other than those identified in this Contract, which costs shall be in accordance with Exhibit B. Without limiting the foregoing, all shipping costs are the Supplier's responsibility except to the extent such charges are identified in Exhibit B, or as noted in any executed order referencing this Contract. The monthly invoicing from the

Supplier must be itemized by type(s) of contractual services performed and in total. Invoices issued by the Supplier shall identify at a minimum:

- i). Solution, product/Solution component, or Service type, or project milestone, and description
- ii). Quantity, charge and extended pricing for each Solution and/or Service item or milestone
- iii). Applicable order date
- iv). This Contract number and any applicable order number
- v). Supplier's Federal Employer Identification Number (FEIN).

Any terms included on Supplier's invoice shall have no force or effect and will in no way bind DMAS.

G. Purchase Payment Terms

Supplier is responsible for the accuracy of its billing information. Supplier agrees not to issue invoices hereunder until permitted as per subsection F, above. Charges for Solutions, products/Solution components, or Services accepted more than ninety (90) days prior to receipt of a valid invoice may not be paid. Should Supplier repeatedly over bill DMAS, DMAS may assess a one percent (1%) charge for the amount over-billed for each month that such over-billing continues and is not promptly returned or corrected.

If there are any disputed items, DMAS shall pay all undisputed charges and promptly notify Supplier in writing of any disputed amount prior to DMAS' due date for payment. Supplier shall thereupon review its records, and, if it does not concur with DMAS, provide DMAS with documentation to support the charge. If such charges remain in dispute, such dispute shall be resolved in accordance with the Dispute Resolution section of this Contract. In the absence of the Supplier's production of written evidence identifying the merit of the disputed amounts within XX days of commencement of the Dispute Resolution process hereunder, DMAS may not pay the disputed amounts and may consider the matter concerning the specific identified amounts closed. All payment terms are net thirty (30) days after receipt of a properly submitted invoice.

13. STATUS MEETINGS

If requested by DMAS, the Account Team will be prepared to conduct weekly stewardship meetings with DMAS to provide a broad review of all services, projects and ongoing operations under this Contract. Supplier should also be prepared to conduct semi-annual meetings/presentations to discuss new products and services and their potential benefit to DMAS.

14. STEERING COMMITTEE

In order to facilitate mutually beneficial contractual relationships with suppliers, DMAS has procedures for establishing a steering committee ("Steering Committee"), consisting of senior management personnel, including personnel involved in the contractual relationship, from DMAS and Supplier.

Roles of the Steering Committee include but are not be limited to a) identifying potential issues which may arise during the performance of a contract, b) discussing and assigning roles and responsibilities, c) establishing methods for quickly resolving potential disputes, d) setting rules for communication and decision making, e) monitoring and measuring the business relationship between the parties, and f) acting as a final decision board for escalated problems.

A meeting of the Steering Committee is intended to be a forum for brainstorming and sharing ideas, emphasizing respect, cooperation, and access, with the end goal of developing relationships to avoid conflict. A facilitator may, but is not required to, conduct a meeting of the Steering Committee.

A Steering Committee for this Contract will be formed at DMAS' option. Meetings may be held at any time during the Contract term, should DMAS, at its sole discretion, determine that a meeting(s) would be beneficial to the contractual relationship, and Supplier agrees to participate in such meeting(s). In addition, Supplier may at any time submit a written request to DMAS for a meeting of the Steering Committee, which DMAS will not unreasonably deny. Supplier shall ensure the availability of the appropriate personnel to meet with the DMAS contract management team.

15. POLICIES AND PROCEDURES GUIDE

Supplier will provide DMAS with a policy and procedures guide that describes how the Supplier and DMAS will work together and how performance, including Deliverables and Services, are to be delivered. The guide will provide process diagram details, working activities, interface points with DMAS and Supplier deliverables. This guide will initially be provided as part of the Project Management Plan Deliverable, and updated versions of the guide will be provided by Supplier to DMAS every 6 months thereafter during the term and any extensions of the Contract.

16. TRAINING AND DOCUMENTATION

A. Training

Supplier shall provide the training required under the RFP as stated in Supplier's Technical Proposal described in Exhibit A and priced accordingly in Exhibit B.

B. Documentation

Supplier shall deliver to DMAS two (2), or such number as agreed upon between the parties, complete hard copies or electronic media of Documentation applicable to Supplier's Deliverable provided to DMAS, as requested by DMAS. Should Supplier revise or replace the Documentation, or should Documentation be modified to reflect Updates, Supplier shall deliver to DMAS such updated or replacement Documentation, in the same quantity and media format as originally requested by DMAS, or as agreed upon between the parties. DMAS shall have the right, as part of any license grant, to make as many additional copies of the Documentation, in whole or in part, for its own use as required. This Documentation shall include, but not be limited to, overview descriptions of all major functions, detailed step-by-step installation and operating procedures for each screen and activity, and technical reference manuals. Such Documentation shall be revised to reflect any modifications, fixes or updates made by Supplier. DMAS shall have the right, as part of the license granted by Supplier, at its own discretion, to take all or portions of the Documentation, modify or completely customize it in support of the authorized use of the Solution and may duplicate such Documentation and include it in DMAS documentation. Agency shall continue to include Supplier's copyright notice.

17. DMASSELF-SUFFICIENCY

At any time during Supplier's performance of the Contract, DMAS may require that Supplier provide to DMAS a detailed plan to develop DMAS self-sufficiency and to transition operation and management to DMAS, or its Agent, which Agent may be VITA, or an agent of VITA, or a third party provider under contract with DMAS. At DMAS' request for Supplier's Services issued hereunder, Supplier shall provide assistance reasonably required by DMAS to

endeavor to develop DMAS' self-sufficiency in operating and managing the Solution, Custom Software, Supplier Technology and/or Services that Supplier provided to DMAS under this Contract under the hourly rates set forth in Exhibit B. During and/or after the transition period, DMAS may, at its sole discretion, elect to continue Maintenance Services from Supplier, if authorized under the scope of the Contract, for any of the units of the Solution delivered to DMAS by Supplier, subject to the terms of a mutually agreeable maintenance agreement governing such Services.

18. COMPETITIVE PRICING

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19. ESCROW AGREEMENT

[[Supplier shall maintain a copy of all Work Product in a (re)useable format, developed under this Contract for DMAS and any available English language technical and/or user documentation, if any (The "Escrowed Materials"), in an escrow account, and shall maintain with escrow agent the executed agreement attached hereto as Exhibit C (Escrow Agreement). DMAS acknowledges that, prior to the Effective Date of this Contract, Supplier delivered to DMAS and DMAS received a copy of the executed Escrow Agreement naming the Commonwealth of Virginia as a third party beneficiary. DMAS has reviewed Escrow Agreement to ensure that such Escrow Agreement does not impose upon the Commonwealth any requirements other than administrative responsibilities necessary for the operation of the Escrow Agreement. If events give rise to a need for the escrow agent to release the "Escrowed Materials" to the Commonwealth, as such release conditions are defined in this Contract, the Commonwealth's sole responsibility shall be to request the release of such Escrowed Materials from the escrow agent. Supplier agrees to notify DMAS in writing not less than thirty (30) calendar days prior to termination or any modification of Escrow Agreement that affects DMAS or the escrow account for DMAS. Supplier warrants that the information and materials to be kept in escrow in a media safe environment for the benefit of the Commonwealth are specifically identified and listed in Attachment A to the Escrow Agreement and include the most current version used by all DMAS of the Escrowed Materials, to include the following, as applicable:

i. the source code for the Custom Software, copies of the configuration files, and all future release versions,

ii. all Documentation related thereto as well as all necessary and available information, which must be in English,

iii. technical Documentation must be in English and shall enable DMAS, or an Agent of DMAS or any Authorized User to create, maintain and/or enhance the Custom Software/Work Product without the aid of Supplier or any other person or reference to any other materials, maintenance tools (test programs and program specifications), or proprietary or third party system utilities (compiler and assembler descriptions); descriptions of the system/program generation; and descriptions of any Supplier tools required to enable DMAS and all Solution Users to make use of the Work Product, and

iv. all Documentation must be provided in unprotected MS Word and other commonly used formats that can be updated.

Supplier warrants that all Escrowed Materials shall be deposited in escrow for DMAS on a rolling semi-annual basis, such that updates or modifications to Escrowed Materials already deposited are added to prior deposits of the Escrowed Materials with that frequency. All Escrowed Material deposits shall be verified by the Escrow Agent within 30 days after deposit to validate the completeness, accuracy and functionality of the Supplier's escrow deposits.

The verification process to be performed by the Escrow Agent for the original deposit and subsequent deposits shall be detailed in the Escrow Agreement and a detailed report of all

tests of such verification shall be submitted in writing to DMAS or the Authorized User within 10 business days of completion. To perform such verification, Escrow Agent shall conduct a verification process that is limited to the following:

- i. File List Test - To ensure the deposited items are catalogued and confirm they are readable, (re)useable, and virus free,
- ii. Inventory and Analysis Test – To provide a complete audit and inventory of the deposit including analysis of deposited media to verify the presence of build instructions, to identify all of materials necessary to recreate the original development environment and to confirm the presence of all build instructions, file classification tables, database schema and listings.
- iii. Fault Remedy – To collaborate with Supplier on fixing any faults discovered during the testing, to obtain corrected escrow items and to re-perform any verification tests as necessary until all tests are successful, with written detailed reports to DMAS or the Authorized User.

Supplier warrants that the Escrow Agreement provides for, among other items, the release of the list of items on Attachment A of the Escrow Agreement solely upon the happening of, (a) Supplier's failure to carry out its support and maintenance obligations imposed by this Contract for a period of sixty (60) days and the failure to cure such breach within the applicable cure period set forth in the Contract, (b) Supplier's bankruptcy, (c) Supplier's failure to continue to do business in the ordinary course. Supplier agrees to pay all expenses associated with establishing and maintaining the escrow account and the contents mentioned above.

In addition to any ownership rights the Commonwealth maintains in the Escrowed Materials, and subject to the information and materials listed on Attachment A of the Escrow Agreement being released to the Commonwealth pursuant to the terms of the Escrow Agreement, Supplier hereby grants to the Commonwealth a royalty-free, perpetual, irrevocable license to the Escrowed Materials, that permits disclosure to a third party support-vendor of a complete and accurate copy of Escrowed Materials.

20. CONFIDENTIALITY

A. Treatment and Protection

Each Party shall (i) hold in strict confidence all Confidential Information of any other Party, (ii) use the Confidential Information solely to perform or to exercise its rights under this Contract, and (iii) not transfer, display, convey or otherwise disclose or make available all or any part of such Confidential Information to any third-party. However, each Party may disclose the Confidential Information as delivered by the other Party to subcontractors, contractors or agents of the Party that are bound by non-disclosure contracts with the Party. Each Party shall take the same measures to protect against the disclosure or use of the Confidential Information as it takes to protect its own proprietary or confidential information (but in no event shall such measures be less than reasonable care).

B. Exclusions

The term "Confidential Information" shall not include information that is:

- i. in the public domain through no fault of the receiving Party or of any other person or entity that is similarly contractually or otherwise obligated;
- ii. obtained independently from a third-party without an obligation of confidentiality to the disclosing Party and without breach of this Contract;
- iii. developed independently by the receiving Party without reference to the Confidential Information of the other Party; or

- iv. required to be disclosed under The Virginia Freedom of Information Act (§§2.2-3700 et seq. of the Code of Virginia) or similar laws or pursuant to a court order.

C. Return or Destruction

Upon the termination or expiration of this Contract or upon the earlier request of DMAS, Supplier shall (i) at its own expense, (a) promptly return to DMAS all tangible Confidential Information (and all copies thereof except the record required by law and except pursuant to Section 7D, Return of Materials, above) of DMAS, or (b) upon written request from DMAS, destroy such Confidential Information and provide DMAS with written certification of such destruction, and (ii) cease all further use of DMAS' Confidential Information, whether in tangible or intangible form.

DMAS shall retain and dispose of Supplier's Confidential Information in accordance with the Commonwealth of Virginia's records retention policies.

D. Confidentiality Statement

All Supplier personnel, contractors, agents, and subcontractors performing Services pursuant to this Contract shall be required to sign a confidentiality statement or non-disclosure agreement. Any violation of such statement or agreement shall be deemed a breach of this Contract and may result in termination of the Contract.

E. Business Associate Agreement (BAA)

The Contractor shall be required to enter into a DMAS-supplied Business Associate Agreement (BAA) with DMAS to comply with regulations concerning the safeguarding of protected health information (PHI) and electronic protected health information (ePHI) attached hereto as Exhibit F (BAA). The Contractor shall comply, and shall ensure that any and all subcontractors comply, with all State and Federal laws and regulations with regard to handling, processing, or using the Department's PHI and ePHI. This includes but is not limited to 45 C.F.R. Parts 160 and 164 Modification to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules Under the Health Information Technology for Economic and Clinical Health Act and the Genetic Information Nondiscrimination Act; Other Modifications to the HIPAA Rules; Final Rule, January 25, 2013 and related regulations as they pertain to this Contract. This also includes the requirements in Virginia Code § 32.1-325.3, DMAS regulations, and federal Medicaid requirements regarding safeguarding information of applicants and recipients as set forth in 42 C.F.R. 431, Subpart F.

The Contractor shall keep abreast of any future changes to the regulations. The Contractor shall comply with all current and future HIPAA regulations and other applicable state and federal requirements at no additional cost to DMAS, and agrees to comply with all terms set out in the DMAS BAA, attached hereto as Exhibit F, and including any future changes to the DMAS BAA. The current DMAS BAA template is available on the DMAS website at http://www.dmas.virginia.gov/Content_pgs/rfp.aspx.

21. INDEMNIFICATION AND LIABILITY

A. Indemnification

Supplier agrees to indemnify, defend and hold harmless the Commonwealth, DMAS, their officers, directors, agents and employees (collectively, "Commonwealth's Indemnified Parties") from and against any and all losses, damages, claims, demands, proceedings, suits and actions, including any related liabilities, obligations, losses, damages, assessments, fines, penalties (whether criminal or civil), judgments, settlements,

expenses (including attorneys' and accountants' fees and disbursements) and costs (each, a "Claim" and collectively, "Claims"), incurred by, borne by or asserted against any of Commonwealth's Indemnified Parties to the extent such Claims in any way relate to, arise out of or result from: (i) any intentional or willful conduct or negligence of any employee, agent, or subcontractor of Supplier, (ii) any act or omission of any employee, agent, or subcontractor of Supplier, (iii) breach of any representation, warranty or covenant of Supplier contained herein, (iv) any defect in the Supplier-provided products or services, or (v) any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Supplier-provided products or services. Selection and approval of counsel and approval of any settlement shall be accomplished in accordance with all applicable laws, rules and regulations. For state agencies the applicable laws include §§ 2.2-510 and 2.2-514 of the Code of Virginia. In all cases involving the Commonwealth or state agencies, the selection and approval of counsel and approval of any settlement shall be satisfactory to the Commonwealth. In the event that a Claim is commenced against any of Commonwealth's Indemnified Parties alleging that use of the Supplier-provided products or services, including any components thereof, or that the Supplier's performance or delivery of any product or service under this Contract infringes any third party's intellectual property rights and Supplier is of the opinion that the allegations in such Claim in whole or in part are not covered by this indemnification provision, Supplier shall immediately notify DMAS in writing, via certified mail, specifying to what extent Supplier believes it is obligated to defend and indemnify under the terms and conditions of this Contract. Supplier shall in such event protect the interests of the Commonwealth's Indemnified Parties and secure a continuance to permit DMAS to appear and defend their interests in cooperation with Supplier as is appropriate, including any jurisdictional defenses DMAS may have.

In the event of a Claim pursuant to any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Supplier-provided Deliverables, Supplier Technology, Custom Software, software, Services, Solution, including Solution Components, Application and Cloud Services, as applicable, or Supplier's performance, and in addition to all other obligations of Supplier in this Section, Supplier shall at its expense, either (a) procure for DMAS the right to continue use of such infringing Deliverables, Supplier Technology, Custom Software, software, Services, Solution, including Solution Components, Application and Cloud Services, as applicable, or any component thereof; or (b) replace or modify such infringing Deliverables, Supplier Technology, Custom Software, software, Services, Solution, including Solution Components, Application and Cloud Services, as applicable, or any component thereof, with non-infringing Deliverables, Supplier Technology, Custom Software, software, Services, Solution or Solution Component(s), Application and Cloud Services, as applicable, satisfactory to DMAS. And in addition, Supplier shall provide DMAS with a comparable temporary replacement products and/or services or reimburse DMAS for the reasonable costs incurred by DMAS in obtaining an alternative product or service, in the event DMAS cannot use the affected Deliverable, Supplier Technology, Custom Software, software, Services, Solution or Solution Component(s), Application and Cloud Services, as applicable, or any component thereof. If Supplier cannot accomplish any of the foregoing within a reasonable time and at commercially reasonable rates, then Supplier shall accept the return of the infringing Deliverables, Supplier Technology, Custom Software, software, Services, Solution, Solution Component, Application and Cloud Services, as applicable, or any component thereof, along with any other components rendered unusable by DMAS as a result of the infringing component, and refund the price paid to Supplier for such components.

B. Liability

Except for liability with respect to (i) any intentional or willful misconduct or negligence of any employee, agent, or subcontractor of Supplier, (ii) Supplier's confidentiality obligations, (iii) Supplier's security compliance obligations, and (iv) Supplier's data privacy and security obligations as specified under this Contract, Supplier's liability shall be limited to the total Design, Development and Implementation price if the claim arises during the Design, Development and Implementation period and the total value of the contract if the claim arises during an Operations and Maintenance Period. Supplier agrees that it is fully responsible for all acts and omissions of its employees, agents, and subcontractors, including their gross negligence or willful misconduct. The limitation shall apply on a per-incident basis, with an aggregate cap of three times the Contract value, it being understood that multiple losses stemming from the same root cause constitute a single incident.

FOR ALL OTHER CONTRACTUAL CLAIMS, IN NO EVENT WILL ANY PARTY BE LIABLE TO ANY OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING (WITHOUT LIMITATION) LOSS OF PROFIT, INCOME OR SAVINGS, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, EXCEPT WHEN SUCH DAMAGES ARE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE PARTY, ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, FOR ALL CLAIMS (INCLUDING WITHOUT LIMITATION THOSE UNDER PARAGRAPH A OF THIS SECTION AND FOR INDEMNIFICATION CLAIMS UNDER SECTIONS 24 AND 27B, BELOW, AND IN THE BAA) AND DAMAGES ARISING UNDER OR RELATED TO THIS AGREEMENT, SUPPLIER'S LIABILITY SHALL NOT EXCEED \$135,000,000 (ONE HUNDRED THIRTY-FIVE MILLION DOLLARS) IN AGGREGATE.

22. INSURANCE

In addition to the insurance coverage required by law as referenced in the Incorporated Contractual Provisions section of this Contract, Supplier shall carry:

Errors and omissions insurance coverage in the amount of \$10,000,000 per claim.

23. PERFORMANCE BOND

The Supplier shall deliver to the DMAS Contracts Management office an executed performance bond, in a form acceptable to DMAS with DMAS as obligee. The surety shall be a surety company or companies approved by the State Corporation Commission to transact business in the Commonwealth of Virginia. The successful Supplier shall obtain the required performance bond in form and substance acceptable to the Commonwealth and provide it to the Commonwealth no later than 7 days after the Contract Effective date detailed in the Contract. The successful Supplier must meet this performance bond requirement by providing the Commonwealth (as required) a performance bond covering the entire Contract period including all options to extend the Contract. The initial performance bond includes the Design, Development and Implementation (DDI)/Start-up period of the Contract for the amount equal to 10% of the DDI fee (Implementation price), and, thereafter, a new annual (or re-issued) performance bond equal to 10% of the annual estimated contract amount covering each subsequent annual period of the Operations and Maintenance Phase of the Contract. The Supplier must provide annual (or re-issued) performance bonds to the Commonwealth no later

than the last day of the month immediately preceding the annual covered period of each year of the Operations Phase. Failure to provide to the Commonwealth the performance bond equal to 10% of the annual estimated contract amount as required prior to the Contract Effective date and, as applicable in the case of an annual performance bond, no later than the last day of the month immediately preceding each annual covered period of the Operations Phase, shall result in DMAS' option to terminate the Contract. The successful Supplier shall make all necessary arrangements for the performance bond prior to the Contract Effective date and prior to any subsequent performance bond deadlines in the case of an annual performance bond. The Commonwealth will not assist the Supplier securing the services of any fidelity or guaranty underwriter. Failure to adhere to the performance bond requirements of this Contract shall result in DMAS' option to terminate the Contract as a material breach of the Contract.

24. SECURITY COMPLIANCE

Supplier agrees to comply with all applicable provisions of the then-current Commonwealth of Virginia security procedures, published by the Virginia Information Technologies Agency (VITA) and which may be found at: (<https://vita.virginia.gov/default.aspx?id=537>) or a successor URL(s), as are pertinent to Supplier's performance of the Services. Supplier further agrees to comply with all applicable provisions of DMAS' then-current security procedures as are pertinent to Supplier's operation and which have been supplied to Supplier by DMAS. Supplier shall also comply with all federal, state and local laws and regulations that are applicable to Supplier in its performance of the Services.

Supplier may, at any time, be required to execute and complete, for each individual Supplier employee or agent performing services or with access to Content hereunder, additional forms which may include non-disclosure agreements to be signed by Supplier's employees or agents acknowledging that certain DMAS information with which such employees and agents come into contact while at the DMAS site is confidential and proprietary pursuant to this Contract. Any unauthorized release of proprietary or Personal information by the Supplier or an employee or agent of Supplier in violation of this clause shall constitute a breach of its obligations under this Section and the Contract. Supplier shall immediately notify DMAS, if applicable, of any Breach of the security of the system that stores Unencrypted and Unredacted Personal Information obtained by Supplier from any Commonwealth entity or agent thereof in the course of performance of the Services, as those terms are defined in Virginia Code 18.2-186.6, of which it becomes aware. Supplier shall provide DMAS the opportunity to participate in the investigation of the Breach and to exercise control over reporting the unauthorized disclosure, to the extent permitted by law. Supplier shall indemnify, defend, and hold the Commonwealth, DMAS, their officers, directors, employees and agents harmless from and against any and all fines, penalties (whether criminal or civil), judgments, damages and assessments, including reasonable expenses suffered by, accrued against, or charged to or recoverable from the Commonwealth, DMAS, their officers, directors, agents or employees, as a result of any breach under this section attributable to the failure of Supplier to perform its obligations pursuant this Section.

DMAS shall have the right to require an in-person security assessment meeting in order to facilitate discussions with personnel knowledgeable about Supplier's information security program ("Assessment Meeting") prior to the commencement of Cloud Services and from time to time during the term of this Agreement. During the performance of the Cloud Services, on an ongoing basis from time to time, DMAS, at its own expense, shall be entitled to perform, or to have performed, an Assessment Meeting regarding Supplier's information security program. The Assessment Meeting shall be conducted so as not to unduly interfere with the

operation of Supplier's business operations. In the event DMAS wishes to schedule an Assessment Meeting, it shall provide a written request to Supplier and a document outlining the proposed scope of the discussions at least thirty (30) days prior to the meeting.

In lieu of an on-site audit, upon request by DMAS, Supplier agrees to complete, within forty-five (45) days of receipt, a written audit questionnaire provided by DMAS regarding Supplier's information security program. Supplier shall implement those reasonably required safeguards as identified by any program audit to the extent necessary in order for Supplier to comply with the applicable security Requirements of this Contract.

25. IMPORT/EXPORT

In addition to compliance by Supplier with all applicable export laws and regulations, DMAS requires that any data deemed "restricted" or "sensitive" by either federal or state authorities, must only be collected, developed, analyzed, or otherwise used or obtained by persons or entities working within the boundaries of the United States in violation of applicable regulations.

26. BANKRUPTCY

If Supplier becomes insolvent, takes any step leading to its cessation as a going concern, fails to pay its debts as they become due, or ceases business operations continuously for longer than fifteen (15) business days, then DMAS may immediately terminate this Contract, on notice to Supplier unless Supplier immediately gives DMAS adequate assurance of the future performance of this Contract. If bankruptcy proceedings are commenced with respect to Supplier, and if this Contract has not otherwise terminated, then DMAS may suspend all further performance of this Contract until Supplier assumes this Contract and provides adequate assurance of performance thereof or rejects this Contract pursuant to Section 365 of the Bankruptcy Code or any similar or successor provision, it being agreed by DMAS and Supplier that this is an executory contract. Any such suspension of further performance by DMAS pending Supplier's assumption or rejection shall not be a breach of this Contract, and shall not affect the rights of DMAS to pursue or enforce any of its rights under this Contract or otherwise.

27. GENERAL PROVISIONS

A. Relationship Between DMAS and Supplier

Supplier has no authority to contract for DMAS or in any way to bind, to commit DMAS to any agreement of any kind, or to assume any liabilities of any nature in the name of or on behalf of DMAS. Under no circumstances shall Supplier, or any of its employees, hold itself out as or be considered an agent or an employee of DMAS, and DMAS shall have no duty to provide or maintain any insurance or other employee benefits on behalf of Supplier or its employees. Supplier represents and warrants that it is an independent contractor for purposes of federal, state and local employment taxes and agrees that DMAS is not responsible to collect or withhold any federal, state or local employment taxes, including, but not limited to, income tax withholding and social security contributions, for Supplier. Any and all taxes, interest or penalties, (including, but not limited to, any federal, state or local withholding or employment taxes, and any penalties related to health care or employee benefits laws) that are imposed, assessed or levied as a result of this Contract or Services performed pursuant to this Contract shall be paid or withheld by Supplier or, if assessed against and paid by DMAS, shall be reimbursed by Supplier upon demand by DMAS.

B. Incorporated Contractual Provisions

The contractual provisions at the following URL are mandatory contractual provisions, required by law or by VITA, and are incorporated by reference:

[https://www.vita.virginia.gov/uploadedfiles/VITA Main Public/scm/StatutorilyMandatedTsandCs.pdf](https://www.vita.virginia.gov/uploadedfiles/VITA%20Main%20Public/scm/StatutorilyMandatedTsandCs.pdf).

The contractual claims provision of §2.2-4363 of the Code of Virginia and the required eVA provisions at:

[http://vita.virginia.gov/uploadedfiles/VITA Main Public/scm/eVATsandCs.pdf](http://vita.virginia.gov/uploadedfiles/VITA%20Main%20Public/scm/eVATsandCs.pdf) are also incorporated by reference.

If this Contract will or may include the entry, handling, processing, storage, movement, sharing of or access to Federal Tax Information (FTI) by Supplier or any subcontractor of Supplier in any manner, IRS Publication 1075 shall apply to that order, SOW and Contract. The Tax Information Security Guidelines for Federal, State and Local Agencies – Exhibit 7, Safeguarding Contract Language, as appropriate, and the requirements specified in Exhibit 7 in accordance with IRC 6103(n) are included by reference and are located at this URL:

[http://www.vita.virginia.gov/uploadedFiles/VITA Main Public/SCM/Mandatory IRS Pub 1075 for FTI data.pdf](http://www.vita.virginia.gov/uploadedFiles/VITA%20Main%20Public/SCM/Mandatory%20IRS%20Pub%201075%20for%20FTI%20data.pdf). Supplier hereby acknowledges that it will comply with all applicable requirements of these terms and IRS Publication 1075 in its entirety. Non-compliance with the terms and IRS Publication 1075 may be determined, solely by VITA, as a material breach of the Contract. Further, the use of the term “Contractor” in these terms and IRS Publication 1075 means the same as the term “Supplier,” as defined and used in the Contract. FTI consists of federal tax returns and return information (and information derived from it) that is in the agency’s (i.e., Authorized Users of this Contract, as defined herein) possession or control which is covered by the confidentiality protections of the Internal Revenue Code (IRC) and subject to the IRC 6103(p)(4) safeguarding requirements including IRS oversight. FTI is categorized as Sensitive but Unclassified information and may contain personally identifiable information (PII).

The terms and conditions in documents posted to the aforereferenced URLs are subject to change pursuant to action by the legislature of the Commonwealth of Virginia, change in VITA policy, adoption of revised eVA business requirements, or change to IRS Publication 1075. Supplier is responsible for verifying the correct and current version of this IRS publication and related safeguarding terms language and acknowledges that VITA will be held harmless. If a change is made to the mandatory terms and conditions, a new effective date will be noted in the document title. Supplier is advised to check the URLs periodically.

C. Compliance with the Federal Lobbying Act

Supplier’s signed certification of compliance with 31 USC 1352 (entitled "Limitation on use of appropriated funds to influence certain Federal Contracting and financial transactions") or by the regulations issued from time to time thereunder (together, the "Lobbying Act") is incorporated as an Exhibit E to this Contract.

D. Governing Law

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard to that body of law controlling choice of law. Any and all litigation shall be brought in the circuit courts of the Commonwealth of Virginia. The English language version of this Contract prevails when interpreting this Contract.

The United Nations Convention on Contracts for the International Sale of Goods and all other laws and international treaties or conventions relating to the sale of goods are expressly disclaimed. UCITA shall apply to this Contract only to the extent required by §59.1-501.15 of the Code of Virginia.

E. Dispute Resolution

In accordance with §2.2-4363 of the Code of Virginia, Contractual claims, whether for money or other relief, shall be submitted in writing to the public body from whom the relief is sought no later than sixty (60) days after final payment; however, written notice of the Supplier's intention to file such claim must be given to such public body at the time of the occurrence or beginning of the work upon which the claim is based. Pendency of claims shall not delay payment of amounts agreed due in the final payment. The relevant public body shall render a final decision in writing within thirty (30) days after its receipt of the Supplier's written claim.

The Supplier may not invoke any available administrative procedure under §2.2-4365 of the Code of Virginia nor institute legal action prior to receipt of the decision of the relevant public body on the claim, unless that public body fails to render its decision within thirty (30) days. The decision of the relevant public body shall be final and conclusive unless the Supplier, within six (6) months of the date of the final decision on the claim, invokes appropriate action under §2.2-4364, Code of Virginia or the administrative procedure authorized by §2.2-4365, Code of Virginia.

Upon request from the public body from whom the relief is sought, Supplier agrees to submit any and all contractual disputes arising from this Contract to such public body's alternative dispute resolution (ADR) procedures, if any. Supplier may invoke such public body's ADR procedures, if any, at any time and concurrently with any other statutory remedies prescribed by the Code of Virginia.

In the event of any breach by a public body or a private institution, Supplier's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall Supplier's remedies include the right to terminate any license or support services hereunder.

F. Advertising and Use of Proprietary Marks

Supplier shall not use the name of DMAS or refer to DMAS, directly or indirectly, in any press release or formal advertisement without receiving prior written consent of DMAS. In no event may Supplier externally use a proprietary mark of DMAS without receiving the prior written consent of DMAS.

G. Notices

Any notice required or permitted to be given under this Contract shall be in writing and shall be deemed to have been sufficiently given if delivered in person, or if deposited in the U.S. mails, postage prepaid, for mailing by registered, certified mail, or overnight courier service addressed to:

- i. To DMAS and to Supplier, if Supplier is incorporated in the Commonwealth of Virginia, to the addresses shown on the signature page.
- ii. To Supplier, if Supplier is incorporated outside the Commonwealth of Virginia, to the Registered Agent registered with the Virginia State Corporation Commission and to the address shown on the signature page.

Pursuant to Title 13.1 of the Code of Virginia, DMAS or Supplier may change its address for notice purposes by giving the other notice of such change in accordance with this Section.

Administrative contract renewals, modifications or non-claim related notices are excluded from the above requirement. Such written and/or executed contract administration actions may be processed by the assigned DMAS and Supplier points of contact for this Contract and may be given in person, via U.S. mail, courier service or electronically.

H. No Waiver

Any failure to enforce any terms of this Contract shall not constitute a waiver.

I. Assignment

This Contract shall be binding upon and shall inure to the benefit of the permitted successors and assigns of DMAS and Supplier. Supplier may not assign, subcontract, delegate or otherwise convey this Contract or any of its rights and obligations hereunder, to any entity without the prior written consent of DMAS, and any such attempted assignment or subcontracting without consent shall be void. DMAS may assign this Contract to any Commonwealth government entity, so long as the assignee agrees in writing to be bound by the all the terms and conditions of this Contract.

If any law limits the right of DMAS or Supplier to prohibit assignment or nonconsensual assignments, the effective date of the assignment shall be thirty (30) days after the Supplier gives DMAS prompt written notice of the assignment, signed by authorized representatives of both the Supplier and the assignee. Any payments made prior to receipt of such notification shall not be covered by this assignment.

J. Captions

The captions are for convenience and in no way define, limit or enlarge the scope of this Contract or any of its Sections.

K. Severability

Invalidity of any term of this Contract, in whole or in part, shall not affect the validity of any other term. DMAS and Supplier further agree that in the event such provision is an essential part of this Contract, they shall immediately begin negotiations for a suitable replacement provision.

L. Survival

Any provisions of this Contract regarding Software License, Rights To Work Product, Warranty, Escrow, Confidentiality, Payment, Content Privacy and Security, Liability, Indemnification, and the General Provisions shall survive the expiration or termination of this Contract.

M. Force Majeure

No Party shall be responsible for failure to meet its obligations under this Contract if the failure arises from causes beyond the control and without the fault or negligence of the non-performing Party. If any performance date under this Contract is postponed or extended pursuant to this section for longer than thirty (30) calendar days, DMAS, by written notice given during the postponement or extension, may terminate this Contract, designating the effective date of termination without liability for that termination.

N. Remedies

The remedies set forth in this Contract are intended to be cumulative. In addition to any specific remedy, DMAS reserve any and all other remedies that may be available at law or in equity. The foregoing applies unless otherwise expressly set forth in this Contract.

O. Right to Audit

In addition to the requirements outlined below, the Supplier must comply, and must require compliance by its subcontractors with the security and confidentiality obligations herein.

1) Access to Records - DMAS, the Centers for Medicare and Medicaid Services, state and federal auditors, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the Supplier and any of its subcontractors supporting the fees and expenses incurred in performing the Services/Cloud Services. Access to such records includes any records that are stored offsite.

DMAS, the Centers for Medicare and Medicaid Services, state and federal auditors, or any of their duly authorized representatives, shall be allowed to inspect, copy, and audit any of the above documents to the extent reasonably necessary to substantiate payment made under this Contract, or otherwise as required by law.

2) Retention of Records - The Supplier shall retain all records and reports relating to this Contract for a period of six (6) years after final payment is made under this Contract or in the event that this Contract is renewed six (6) years after the final payment. When an audit, litigation, or other action involving or requiring access to records is initiated prior to the end of said period, however, records shall be maintained for a period of six (6) years following resolution of such action or longer if such action is still ongoing. Copies on microfilm or other appropriate media of the documents contemplated herein may be substituted for the originals provided that the microfilming or other duplicating procedures are reliable and are supported by an effective retrieval system which meets legal requirements to support litigation, and to be admissible into evidence in any court of law.

The Supplier shall not have the right to audit, or require to have audited, DMAS.

P. Offers of Employment

During the first twelve (12) months of the Contract, should any Supplier personnel who has substantially worked on any services covered by this Contract directly solicit to hire and hire an employee of DMAS who has substantially worked on any project covered by this Contract without prior written consent, the Supplier shall be billed for fifty percent (50%) of the employee's annual salary in effect at the time of termination. The foregoing shall not restrict Supplier's right to solicit pursuant to general media. DMAS' right to elect such liquidated damages, and Supplier's obligation to pay such liquidated damages, is the DMAS' sole and exclusive remedy for Supplier's violation this Section 26(P).

Q. Contract Administration

Supplier agrees that at all times during the term of this Contract an account executive, at Supplier's senior management level, shall be assigned and available to DMAS. Supplier reserves the right to change such account executive upon reasonable advance written notice to DMAS.

R. Access to Premises

The Supplier shall allow duly authorized agents or representatives of the state or federal government, during normal business hours, access to the primary services worksite located at Deloitte Consulting LLP 901 E. Byrd Street, Suite 820 West Tower, Richmond, VA 23219 for performance of the Services, to inspect, monitor or otherwise evaluate the performance of the Suppliers and subcontractor's contractual activities. In the event right of access is requested under this section, the Supplier and subcontractor shall, upon request, provide and make available staff to assist in the inspection effort, and provide adequate space on the premises to reasonably accommodate the state or federal personnel conducting the inspection effort. All inspections shall be conducted in a manner as will not unduly interfere with the performance of Supplier or subcontractor's activities. The Supplier shall be given thirty (30) calendar days to respond to any preliminary findings of an inspection before DMAS shall finalize its findings. All information so obtained will be accorded confidential treatment as provided under applicable law.

DMAS, the Office of the Attorney General of the Commonwealth of Virginia, the federal Department of Health and Human Services, and/or their duly authorized representatives (including VITA for Cloud/Security Requirements) shall, to the extent required by applicable law, or as defined in the requirements contained in this Contract and its Requirements, be allowed access to evaluate through inspection or other means, the quality, appropriateness, and timeliness of all Supplier contractual obligations and performance under this Contract. To the extent that such evaluation pertains to the hosted environment for the Solution, such evaluation shall be coordinated with Supplier and the Cloud Services provider, including any request for an onsite visit of the Cloud Services provider facilities, which must be requested directly from the Cloud Services provider, and which shall only be permitted by the Cloud Services provider to the extent (a) review of the Cloud Services provider's then-current AICPA SOC-2 (Type 2) audit report or Cloud Services provider's then-current COV SEC 525 IT Security Audit Report or any additional information provided by the Cloud Services provider is not sufficient to satisfy the evaluation requirements under law or of this Contract, and (b) such onsite visit causes minimal disruption to the Cloud Services provider's business and is done in accordance with industry standard security policies..

S. Basic DMAS Responsibilities

DMAS understands that Supplier's performance may be dependent on DMAS', its third party contractors' or agents' timely and complete performance of responsibilities, including the issuance of decisions and approvals and the provision of qualified resources and personnel. Supplier will be held accountable for the fault/failure of the Supplier or the Supplier's Solution. Supplier will not be held accountable for the fault/failure of DMAS or the other vendor/contractor/Agents, including obligations, such as service levels, that are impacted by the fault/failure. In the event of vendor/contractor/Agent disputes relating to fault/failure determinations, DMAS will serve as the decision-making authority, with the Parties following the dispute resolution process described in Section 27(E) . In such an event, DMAS will address necessary modifications/schedule deviations to Supplier's Solution in writing, as appropriate and necessary.

T. Entire Contract

The following Exhibits, including all subparts thereof, are attached to this Contract and are made a part of this Contract for all purposes:

- i). Exhibit A – Requirements;
- ii). Exhibit B – Solution Options List; Fees, Service Charges, and Payment Schedule;
- iii). Exhibit C - Escrow Agreement;
- iv). Exhibit D - Intentionally Left Blank;
- v). Exhibit E - Certification Regarding Lobbying;
- vi). Exhibit F – DMAS Business Associate Agreement (BAA).
- vii) Exhibit G – Cloud Services - Additional Terms and Conditions

This Contract and its Exhibits constitute the entire agreement between DMAS and Supplier and supersede any and all previous representations, understandings, discussions or agreements between DMAS and Supplier as to the subject matter hereof. Any and all terms and conditions contained in, incorporated into, or referenced by the Supplier's Proposal shall be deemed invalid. The provisions of the Virginia Department of General Services, Division of Purchases and Supply Vendor's Manual shall not apply to this Contract or any order issued hereunder. This Contract may only be amended by an instrument in writing signed by DMAS and Supplier. In the event of a conflict, the following order of precedence shall apply: this Contract, Exhibit G, Exhibit A, Exhibit B, Exhibit C, Exhibit D, Exhibit F and Exhibit E.

DMAS and Supplier each acknowledge that it has had the opportunity to review this Contract and to obtain appropriate legal review if it so chose.

Executed as of the last date set forth below by the undersigned authorized representatives of DMAS and Supplier.

SUPPLIER

DMAS

By: 
(Signature)

By: 
(Signature)

Name: Brian J. Erdahl
(Print)

Name: Jennifer Lee, MD
(Print)

Title: Principal

Title: Director

Date: 02/28/2018

Date: 3-5-2018

Address for Notice:

Address for Notice:

2500 One PPG Place
Pittsburgh, PA 15222

600 E. Broad St., Ste 1300
Richmond, VA 23219

Attention: Supplier Contact

Attention: Contract Administrator

EXHIBIT A – REQUIREMENTS

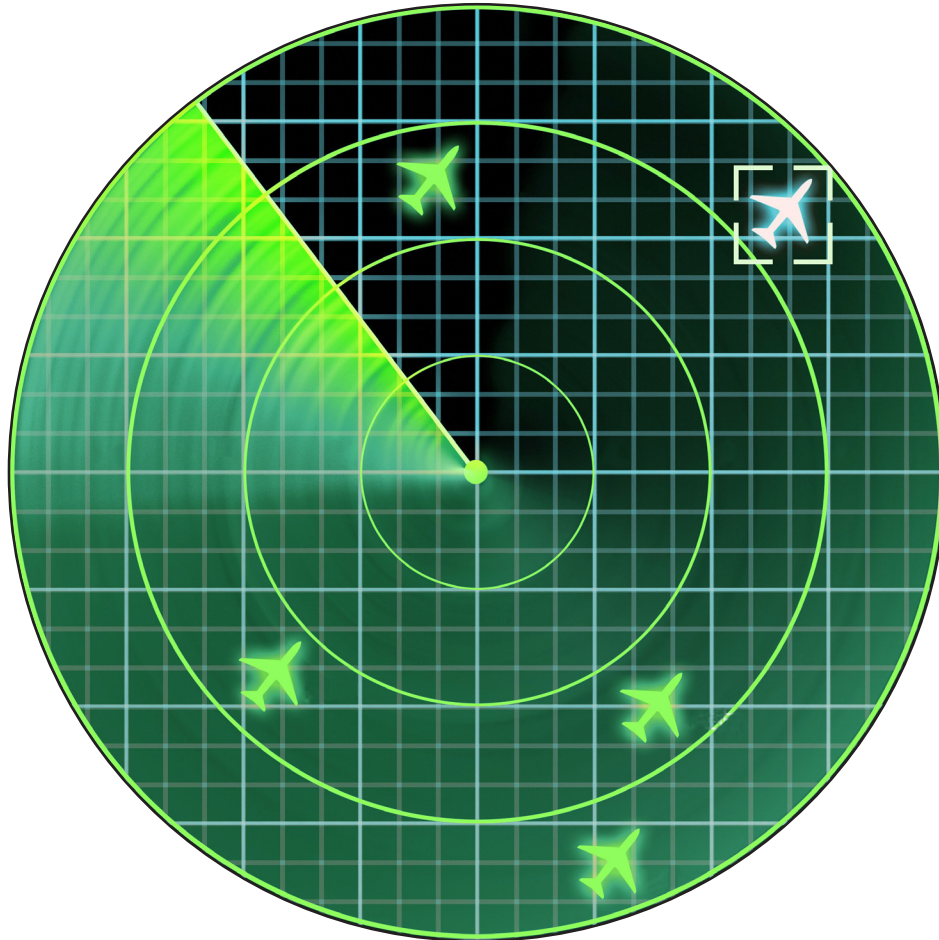
For purposes of this Exhibit A, the term “Requirements” shall mean the following documents with the document with the most current date taking precedence with respect to its terms over earlier dated documents:

1. The RFP for an Integration Services Solution issued on June 15, 2016.
2. Addendum No. 1 to the RFP, issued July 5, 2016.
3. Addendum No. 2 to the RFP, issued July 11, 2016.
4. Addendum No. 3 to the RFP, issued July 15, 2016.
5. Addendum No. 4 to the RFP, issued July 20, 2016.
6. Addendum No. 5 to the RFP, issued July 20, 2016.
7. Addendum No. 6 to the RFP, issued July 29, 2016.
8. Addendum No. 7 to the RFP, issued August 1, 2016.
9. Supplier’s Original Proposal Response to the RFP, dated August 12, 2016.
10. Supplier’s Oral Presentation in Response to the RFP, and accompanying oral presentation materials, on September 28, 2016.
11. Supplier’s Response to Questions, on October 4th, 2016.
12. Supplier’s Clarifications and Responses to Questions & Pricing Items on December 12, 2016
13. Supplier’s Revised Pricing on December 14, 2016.
14. Supplier’s Clarifications to Pricing & Security Assessment ECOS on January 13, 2017.
15. Supplier’s Revised Pricing & Technical Proposal on March 3, 2017
16. Supplier’s Revised Pricing and Clarifications/Negotiations on March 29, 2017.
17. Supplier’s Web Services Clarification on April 19, 2017.
18. Final Negotiations Summary on November 28, 2017.

EXHIBIT B – SOLUTIONS OPTIONS LIST; FEES, SERVICE CHARGES, AND PAYMENT SCHEDULE

For purposes of this Exhibit B, the Term “Solution Options; List; Fees; Service Options and Payment Schedule” shall mean the following documents:

1. Supplier’s Original Proposal Response to the RFP, dated August 12, 2016.
2. Supplier’s Pricing Items on December 12, 2016.
3. Supplier’s Revised Pricing on December 14, 2016.
4. Supplier’s Revised Pricing on March 3, 2017
5. Supplier’s Revised Pricing on March 29, 2017.
6. Supplier’s SWaM plan dated March 3, 2016, contained in the Supplier’s revised pricing on March 29, 2017.
7. Milestone payment chart: The Parties will finalize the milestones for payment along with the final work plan to be agreed, at which time the finalized milestone payments and work plan will supersede any conflicting payment terms or work plan in the preceding documents.
8. The Final Negotiation Summary on November 28, 2017.



Air Traffic Control

Revised Pricing

RFP 2016-04

March 29, 2017 | 2:00 PM EST

Cost Proposal Updates

File 1.0

Deloitte is pleased to provide an update to our cost proposal. Within our original proposal, we aggressively bid our Design, Development, and Implementation (DDI) services based upon our established and proven HealthInteractive Platform solution. For these Cost Proposal Updates, we re-examined DDI and made a few updates and aggressively adjusted the year-over-year Operations and Maintenance (O&M) pricing.

This resulted in significant pricing reductions as reflected in the price schedules below. We have a lot of experience in O&M across hundreds of projects and have a solid reputation of delivering a robust set of services that provides value to our clients. Deloitte firmly believes that adding value should persist throughout the contract and not end after DDI. Our O&M pricing is based upon this experience and our focus on business value.

These updates do not change our originally proposed scope. Rather, this submission reflects our most current solution, which has been continuously improved and expanded since our original proposal.

Some key considerations we took into account in reducing our price:

1. Revised project plan taking into account the lengthening of DDI phase from 24 months to 30 months with no change to overall DDI price
2. Reduced web service count from 175 to 64 services through consolidation and redefinition – offset costs and allowed for no cost increase for extension of 6 DDI months. Also contributed to decrease in O&M costs
3. Modified deliverable (aligned with artifacts) and project work product definitions to add flexibility, responsiveness, and efficiency to project delivery – offset costs and allowed for no cost increase for extension of 6 DDI months
4. Revisions to Operations and Maintenance (O&M) pricing to account for staggered implementation of MES Modules. Also contributed to decrease in O&M costs
5. Alignment of O&M beginning immediately after the 30 month DDI

We have made a number revisions and eliminated assumptions to offer greater flexibility in support of the ISS project.

We value the opportunity to implement your ISS and look forward to an award. If you have further questions or would like to discuss this in more detail, Deloitte Consulting stands ready to work with you. Please do not hesitate to contact Brian Erdahl, Principal at 724-991-3247 or berdahl@deloitte.com.

Pricing Sheets

An updated Appendix C, Pricing Workbook can be found on the following pages followed by our pricing assumptions.

Cost Element	RFP Reference
DDI Contract Phase I Pricing	PRICE SCHEDULE A (A.1-A.5) – Design, Development and Implementation (DDI) Contract Stage 1, SFY 2017-18
DDI Contract Phase II Pricing	PRICE SCHEDULE A (A.6-A.10) – Design, Development and Implementation (DDI) Contract Stage 2, SFY 2018-19
DDI Contract Phase III Pricing	PRICE SCHEDULE A (A.11-A.15) – Design, Development and Implementation (DDI) Contract Stage 3, SFY 2019-20
Cost Element	RFP Reference
O&M SFY-1 Pricing	PRICE SCHEDULE B – Ongoing Operations and Maintenance, Contract Stage SFY 2020-20 (6 Months)
O&M SFY-2 Pricing	PRICE SCHEDULE C – Ongoing Operations and Maintenance, Contract Stage SFY 2020-21
O&M SFY-3 Pricing	PRICE SCHEDULE D – Ongoing Operations and Maintenance, Contract Stage SFY 2021-22
O&M SFY-4 Pricing	PRICE SCHEDULE E – Ongoing Operations And Maintenance, Contract Stage SFY 2022-23
O&M SFY-5 Pricing	PRICE SCHEDULE F – Ongoing Operations and Maintenance, Contract Stage SFY 2023-24
O&M SFY-6 (Optional) Pricing	PRICE SCHEDULE G – Ongoing Operations and Maintenance, Contract Stage SFY 2024-25 (RENEWAL OPTION YEAR 1)
O&M SFY-7 (Optional) Pricing	PRICE SCHEDULE H – Ongoing Operations and Maintenance, Contract Stage SFY 2025-26 (RENEWAL OPTION YEAR 2)
O&M SFY-8 (Optional) Pricing	PRICE SCHEDULE I – Ongoing Operations and Maintenance, Contract Stage SFY 2026-27 (RENEWAL OPTION YEAR 3)
Optional Enhancement Pricing	PRICE SCHEDULE J – Prices For Optional Enhancements
Configuration & Customization Pricing	PRICE SCHEDULE K – Configuration and Customization
License Pricing	PRICE SCHEDULE L – Licenses
	PRICE SCHEDULE M – Supplemental Staff Pricing
Cost Summary	PRICE SCHEDULE N – Summary Of All Pricing Schedules

Figure 1-1. Cost Elements.

Assumptions

#	Assumption
<p>Based upon the conversation with DMAS, Deloitte has reviewed the original Assumptions listed in Figure 1-2 submitted in our Cost Proposal. Our objective was to promote more flexibility into the delivery of services during the contract. These updated assumptions are included in our cost proposal where we have deleted and consolidated where appropriate to provide greater flexibility.</p>	
1	<p>General Bi annual means every 6 months</p>
2	<p>General Deloitte's Response is submitted in accordance with the data available and provided by DMAS at the time of the RFP, and all corresponding performance, dates, and pricing included in our Response are estimates and shall be considered as such and subject to change.</p>
3	<p>General We have used the DMAS Flight Plan and the following milestones to define our Flight Plan and estimate level of effort for the work to be performed:</p> <ul style="list-style-type: none"> • ISS project start date of July 1, 2017 • ISS go-live date of April 30, 2018 <p>Should any of these dates change, our project plan, milestone dates, and associated costs may require revision.</p>
4	<p>General Existing plans, past test results, prior risk assessments or impact analysis, and other program documentation will be made available to Deloitte.</p>
5	<p>General For purposes of this project, the term "certification" or "attestation" refers to the confirmation of a user's system access to their job role.</p> <p>It does not refer to any third-party opinion on the adequacy of the design or operating effectiveness of internal controls.</p>
6	<p>General The DMAS shall obtain a commitment from MES contractors, and other Commonwealth agencies to provide knowledgeable staff during the design, development, testing, and implementation phases of the project according to the project schedule.</p>
7	<p>Master Integration & Flight Plans Our proposal draft Flight Plan tracks closely to the Department's requested flight plan in the RFP and represents the schedule assumptions we made for our proposal response.</p>
8	<p>Master Integration & Flight Plans The list of reports, and analytics for audit log data will be agreed upon during the design phase of the project based on solution requirements identified and after considering any system limitations.</p> <p>Deloitte will configure up to ten (10) custom reports as part of our solution.</p>

#	Assumption
9 Master Integration & Flight Plans	<p>DMAS and VITA will participate in all Master Integration Planning workshops and all attendees will have expert knowledge of the areas they represent (as appropriate for the Master Integration Planning workshop being scheduled). Representatives of DMAS and VITA will have the authority to make planning and design decisions for the areas they represent.</p> <p>MES Module Contractors will attend all scheduled Master Integration Planning workshops and all attendees will have expert knowledge of their solutions (as appropriate for the Master Integration Planning workshop being scheduled) and have the authority to make planning and design decisions for the MES Module Contractor they represent.</p>
10 Master Integration & Flight Plans	Deloitte assumes six (6) workshops per MES module.
11 Testing	The State staff will be responsible for executing the User Acceptance Testing (UAT) for the ISS Solution.
12 Security	MES modules employ ICAM Single Sign-On and ISS authenticates requests at the application module level.
13 Security	For purposes of this project, the terms "audit" and "auditing" refer to the implemented system's ability to track and record specified activities in a log or repository. It does not refer to any third-party recommendation on the capability of the design.
14 Security	Deloitte will be responsible for the application vulnerability assessment of the ISS system components.
15 Security	The requirement to support of DMAS's annual review of user accounts and privileges will be limited to user accounts hosted in ISS ICAM user repository.
16 Security	The Commonwealth will be responsible for the development, maintenance of the corresponding security and privacy policies, procedures, and standards applicable for the MES ISS environment.
17 Security	The integration of ICAM with other MES Modules may involve deployment of software components on those target applications/modules. The module vendors will be responsible for any additional configuration and/or customization required to their respective modules to facilitate this integration.
18 Security	Deloitte will not be responsible for user account data clean-up such as (but not limited to) validating accounts or disabling or removing dormant or unused accounts.
19 Training/Onboarding	During the DDI Phase, Deloitte will conduct twenty-six MES ISS, ICAM, PMO, DMAS UAT and ICAM and Portal training sessions, each one day in length. Each session will be for up to 20 people.

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#	Assumption
20 Training/Onboarding	We assume that DMAS staff and contractors have the knowledge required to perform their roles and a baseline understanding of the tools, services, and methods included in our solution. As such, our training focuses on the specific configurations, processes, and procedures for the MES ISS environment project. We will work with DMAS and its contractors to identify pre-requisite trainings offered by tool vendors as needed if staff do not already have a baseline understanding a tool.
21 Document Management	Based on the requirements in replacement section 3.a.9 in Addendum #4, Deloitte assumes that there will be a minimal number of ISS specific documents in the legacy ECM to be converted that are needed by DMAS and Deloitte.
22 Document Management	Deloitte will configure the Records Management component based on the retention policies provided by the Commonwealth. The engagement excludes a records management discovery exercise.
23 Hosting	Production Hosts are replicated to support Disaster Recovery capabilities.
24 Hosting	Only transactions committed within ISS are replicated to DR site.
25 Hosting	Connectivity over the Commonwealth network with roundtrip delay of less than 50ms would be needed.
26 Hosting	ISS Production and Non-Production/Disaster Recovery environment sizing is based on a volume of 250 transactions per second.
27 Hosting	ICAM licenses are configured for 40,000 users estimated for MES users.
28 Technology	The Software and Hardware costs in appendix K are all inclusive of licensing and maintenance over the 10 year contract.
Mandatory Pricing Options	
29 ECM (Optional Mandatory)	Migration volume is expected to be about 75 - 80% of 67M documents and corresponding metadata. Commonwealth will be responsible for data cleansing and identification of content that needs to be migrated to the new platform. The content will be migrated over a period of time and not all content will be migrated prior to go-live.
30 ECM (Optional Mandatory)	There will be a maximum of five systems to integrate with and a total of twenty unique integration points. Integrations are estimated for read-only access only, to retrieve information or data from external systems to be made available within FileNet. If bi-directional updates are required for any integration (read and write capabilities), this will require additional analysis and estimates beyond the initial estimate. Further, our estimates assume the use of Web Services as the primary mechanism for integrations.
31 ECM (Optional Mandatory)	User Interface for IBM Content Navigator will be accepted as delivered "out of the box."
32 ECM (Optional Mandatory)	There will be a maximum of five (5) custom reports of low to medium complexity.

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#	Assumption
33 ECM (Optional Mandatory)	Our estimate includes a maximum of ten scanning profiles. Each scanning profile may include its own set of index fields, properties and capture flow.
34 ECM (Optional Mandatory)	Each scanning profile can include barcode reading functionality to recognize and populate index fields in the scanning interface. Automated Document classification is not in scope.
35 ECM (Optional Mandatory)	Content to be migrated will include document objects or files (i.e. Word, PDF, Excel, etc.) and associated metadata managed in the legacy FileNet system. Migration of annotations and audit trail history are not in scope.
36 ECM (Optional Mandatory)	Maximum of 6-7 Retention policies will be configured.
37 ECM (Optional Mandatory)	ECM services layer will support services to upload, retrieve & search a document by metadata; update metadata of a document.
38 ECM (Optional Mandatory)	"Out of the box search" provided by FileNet will be configured.
39 ECM (Optional Mandatory)	ECM Training will be limited to 3-4 sessions of Train-the-Trainer.
40 ECM (Optional Mandatory)	4-5 Document centric workflows will be implemented with an average of 8 or less steps (automated + manual).
41 ECM (Optional Mandatory)	The percentage of OCR accuracy cannot be guaranteed due to inherent limitations in automated recognition technology and other limiting factors.
42 ECM (Optional Mandatory)	25% of the scanned documents need OCR.
43 ECM (Optional Mandatory)	Percentage of legacy documents that need to be declared as records = 30%. Legacy documents, post migration, do not need to be full-text indexed.
44 ECM (Optional Mandatory)	Total number of named user 600 with 150 concurrent users.
45 ECM (Optional Mandatory)	Number of yearly electronic signature transactions is defined to be less than 50,000.
46 ECM (Optional Mandatory)	Additional Document Volume related metrics are as follows:
47 ECM (Optional Mandatory)	1. API driven Number of documents imported daily through third party clients, batch imports – 3000; Average doc size – 150 KB; Number of custom attributes – 10; Percentage Full Text indexed – 40

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#	Assumption
48 ECM (Optional Mandatory)	2. Scanning Documents scanned/day – 6000; Percentage scanned in color – 5; Average doc size – 150 KB; Features – Image Clean-up; Barcode recognition; Number of capture stations dedicated for this initiative – 45
49 ECM (Optional Mandatory)	3. Email Capture Emails captured/day – 600. These emails have attachments. Average email size – 50 KB; Average attachment size – 150 KB; Average number of attachments – 3
50 ECM (Optional Mandatory)	4. FileNet Web Client Number of active users during a day – 600; Number of new documents created/active user/day – 6; Average size – 250 KB; Full-text Percentage – 100; Number of property based searches/user during a typical day – 15; Number of full-text based searches/user during a typical day – 12; Number of documents Checked Out/Checked In per Active User during a typical day – 9
51 ECM (Optional Mandatory)	5. Document Routing Number of document routing workflows/day – 1200; Average Manual Steps - 2
52 ECM (Optional Mandatory)	The solution will integrate (monitor and ingest electronic files) with an Enterprise Fax solution used by the Commonwealth.
53 ECM (Optional Mandatory)	Imaging may require the Commonwealth to acquire additional scanning hardware. The exact nature and quantity of scanners required will be determined after finalizing the imaging needs during the initial months of DDI and better understanding the possible reuse of existing scanner infrastructure.
54 ECM (Optional Mandatory)	ECM pricing is scoped for Design, Development & Implementation (DDI) activities including document conversion. It does not include O&M.
55 ECM (Optional Mandatory)	To maximize hardware investment, the Non-production environments run under a reduced footprint if a DR event is declared.
56 ECM (Optional Mandatory)	The ECM Production Environment includes: 8 Processor Cores, 160 GB Memory, 18TB Storage The ECM Non-Production Environment includes: 24 Processor Cores, 620 GB Memory, 20TB Storage
57 EDI Call Center (Mandatory Optional)	DMAS will provide Deloitte EDI Call Center staff with access to the information held in the DMAS EDI Gateway supporting issue resolution.
58 EDI Call Center (Mandatory Optional)	DMAS will provide access to current EDI Call Center staff during the DDI phase to support knowledge transfer, planning sessions, discussions, current DMAS training materials, current performance statistics, volume information, current incident reporting information and historical information.

#	Assumption
59 EDI Call Center (Mandatory Optional)	Up-to-date EDI Call Center documentation will be made available to facilitate call center staff training.
60 EDI Call Center (Mandatory Optional)	DMAS will provide current materials, hard copy and electronic to Deloitte for the DDI phase as per the Deloitte Work Plan for this project. Any updates made during the DDI phase are also made available to Deloitte staff prior to their release to the users, providers and submitters.
61 EDI Call Center (Mandatory Optional)	EDI Call Center hours of operation are 8 AM to 5 PM, Monday - Friday except for DMAS approved Holidays.
62 EDI Call Center (Mandatory Optional)	Module vendors adequately staff Tier 2 Help Desk to handle the EDI issues and calls routed for research, resolution, and tracking through closure.

Figure 1-2. Assumptions.

A.1 -A.5

Time Period for this Stage: July 1, 2017 to June 30, 2018				
	Number of Months (N)	Price per Month (PPM)	Total Price (N*PPM)	Calculated Percent Total Price (Total Price/Total Stage Price *100)
(A.1) Fixed Monthly Payments	12	\$722,359.12	\$8,668,309.44	55.08%
(A.2) Quality Maintenance Payments Price	N/A	N/A	\$1,101,656.19	7.00%
(A.3) Licenses Price[1]	N/A	N/A	\$5,495,841.56	34.92%
(A.4) CMS Certification Quality Maintenance Payments Price	N/A	N/A	\$472,138.37	3.00%
(A.5) Total Stage Price (Sum A.1 – A.4)	N/A	N/A	\$15,737,945.56	100%

[1] License information shall also be included as a line item in Schedule L – Licenses.

A.6-A.10

Time Period for this Stage: July 1, 2018 to June 30, 2019				
	Number of Months (N)	Price per Month (PPM)	Total Price (N*PPM)	Calculated Percent Total Price (Total Price/Total Stage Price *100)
(A.6) Fixed Monthly Payments	12	\$286,487.99	\$3,437,855.88	78.33%
(A.7) Quality Maintenance Payments Price	N/A	N/A	\$307,230.84	7.00%
(A.8) Licenses Price[1]	N/A	N/A	\$512,254.98	11.67%
(A.9) CMS Certification Quality Maintenance Payments Price	N/A	N/A	\$131,670.36	3.00%
(A.10) Total Stage Price (Sum A.6 – A.9)	N/A	N/A	\$4,389,012.06	100%

[1] License information shall also be included as a line item in Schedule L – Licenses.

[2] This column should include DDI and any partial implementation costs

A.11-A.16

Time Period for this Stage: July 1, 2019 to December 31, 2019				
	Number of Months (N)	Price per Month (PPM)	Total Price (N*PPM)	Calculated Percent Total Price (Total Price/Total Stage Price *100)
(A.6) Fixed Monthly Payments	6	\$286,487.98	\$1,718,927.88	78.33%
(A.7) Quality Maintenance Payments Price	N/A	N/A	\$153,615.42	7.00%
(A.8) Licenses Price[1]	N/A	N/A	\$256,127.49	11.67%
(A.9) CMS Certification Quality Maintenance Payments Price	N/A	N/A	\$65,835.18	3.00%
(A.10) Total Stage Price (Sum A.6 – A.9)	N/A	N/A	\$2,194,505.97	100%

[1] License information shall also be included as a line item in Schedule L – Licenses.

[2] This column should include DDI and any partial implementation costs

B.1-B.4

Time Period for this Stage: January 1, 2020 - June 30, 2020				
	Number of Months (N)	Price per Month (PPM)	Total Price (N*PPM)	Calculated Percent Total Price (Total Price/Total Stage Price *100)
(B.1) Fixed Monthly Payments	6	\$270,172.42	\$1,621,034.52	74%
(B.2) Licenses Price[1]	N/A	N/A	\$384,630.98	18%
(B.3) Configuration/ Customization Price[2]	N/A	N/A	\$191,724.00	9%
(B.4) Total Stage Price (Sum B.1 - B.3)	N/A	N/A	\$2,197,389.50	100%

[1] License information shall also be included as a line item in Pricing Schedule L – Licenses.

[2] Total amount from Schedule K - Configuration and Customization, shall be transferred for this line item.

B.5-B.8

Time Period for this Stage: July 1, 2020 – June 30, 2021				
	Number of Months (N)	Price per Month (PPM)	Total Price (N*PPM)	Calculated Percent Total Price (Total Price/Total Stage Price *100)
(B.5) Fixed Monthly Payments	12	\$261,652.50	\$3,139,830.00	72%
(B.6) Licenses Price[1]	N/A	N/A	\$850,645.99	19%
(B.7) Configuration/ Customization Price[2]	N/A	N/A	\$383,448.00	9%
(B.8) Total Stage Price (Sum B.5 – B.7)	N/A	N/A	\$4,373,923.99	100%

[1] License information shall also be included as a line item in Pricing Schedule L – Licenses.

[2] Total amount from Schedule K - Configuration and Customization, shall be transferred for this line item.

C.1-C.4

Time Period for this Stage: July 1, 2021 – June 30, 2022				
	Number of Months (N)	Price per Month (PPM)	Total Price (N*PPM)	Calculated Percent Total Price (Total Price/Total Stage Price *100)
(C.1) Fixed Monthly Payments	12	\$246,812.06	\$2,961,744.72	69%
(C.2) Licenses Price[1]	N/A	N/A	\$964,377.26	22%
(C.3) Configuration/ Customization Price[2]	N/A	N/A	\$383,448.00	9%
(C.4) Total Stage Price (Sum C.1 – C.3)	N/A	N/A	\$4,309,569.98	100%

[1] License information shall also be included as a line item in Pricing Schedule L – Licenses.

[2] Total amount from Schedule K - Configuration and Customization, shall be transferred for this line item.

D.1-D.4

Time Period for this Stage: July 1, 2022 - June 30, 2023				
	Number of Months (N)	Price per Month (PPM)	Total Price (N*PPM)	Calculated Percent Total Price (Total Price/Total Stage Price *100)
(D.1) Fixed Monthly Payments	12	\$224,432.37	\$2,693,188.44	64%
(D.2) Licenses Price[1]	N/A	N/A	\$1,136,811.10	27%
(D.3) Configuration/ Customization Price[2]	N/A	N/A	\$383,448.00	9%
(D.4) Total Stage Price (Sum D.1 - D.3)	N/A	N/A	\$4,213,447.54	100%

[1] License information shall also be included as a line item in Pricing Schedule L – Licenses.

[2] Total amount from Schedule K - Configuration and Customization, shall be transferred for this line item.

E.1-E.4

Time Period for this Stage: July 1, 2023 - June 30, 2024				
	Number of Months (N)	Price per Month (PPM)	Total Price (N*PPM)	Calculated Percent Total Price (Total Price/Total Stage Price *100)
(E.1) Fixed Monthly Payments	12	\$193,128.23	\$2,317,538.76	57%
(E.2) Licenses Price[1]	N/A	N/A	\$1,335,969.29	33%
(E.3) Configuration/ Customization Price[2]	N/A	N/A	\$383,448.00	9%
(E.4) Total Stage Price (Sum E.1 - E.3)	N/A	N/A	\$4,036,956.05	100%

[1] License information shall also be included as a line item in Pricing Schedule L - Licenses.

[2] Total amount from Schedule K - Configuration and Customization, shall be transferred for this line item.

F.1-F.4

Time Period for this Stage: July 1, 2024 - December 31, 2024				
	Number of Months (N)	Price per Month (PPM)	Total Price (N*PPM)	Calculated Percent Total Price (Total Price/Total Stage Price *100)
(F.1) Fixed Monthly Payments	6	\$177,883.26	\$1,067,299.56	55%
(F.2) Licenses Price[1]	N/A	N/A	\$697,520.44	36%
(F.3) Configuration/ Customization Price[2]	N/A	N/A	\$191,724.00	10%
(F.4) Total Stage Price (Sum F.1 - F.3)	N/A	N/A	\$1,956,544.00	100%

[1] License information shall also be included as a line item in Pricing Schedule L - Licenses.

[2] Total amount from Schedule K - Configuration and Customization, shall be transferred for this line item.

F.5-F.8

Time Period for this Stage: January 1, 2025 – June 30, 2025				
	Number of Months (N)	Price per Month (PPM)	Total Price (N*PPM)	Calculated Percent Total Price (Total Price/Total Stage Price *100)
(F.5) Fixed Monthly Payments	6	\$175,421.26	\$1,052,527.56	52%
(F.6) Licenses Price[1]	N/A	N/A	\$762,475.02	38%
(F.7) Configuration/ Customization Price[2]	N/A	N/A	\$191,724.00	10%
(F.8) Total Stage Price (Sum F.5 – F.7)	N/A	N/A	\$2,006,726.58	100%

[1] License information shall also be included as a line item in Pricing Schedule L – Licenses.

[2] Total amount from Schedule K - Configuration and Customization, shall be transferred for this line item.

G.1-G.4

Time Period for this Stage: July 1, 2025 - June 30, 2026				
	Number of Months (N)	Price per Month (PPM)	Total Price (N*PPM)	Calculated Percent Total Price (Total Price/Total Stage Price *100)
(G.1) Fixed Monthly Payments	12	\$175,833.86	\$2,110,006.32	52%
(G.2) Licenses Price[1]	N/A	N/A	\$1,596,374.24	39%
(G.3) Configuration/ Customization Price[2]	N/A	N/A	\$383,448.00	9%
(G.4) Total Stage Price (Sum G.1 - G.3)	N/A	N/A	\$4,089,828.56	100%

[1] License information shall also be included as a line item in Pricing Schedule L - Licenses.

[2] Total amount from Schedule K - Configuration and Customization, shall be transferred for this line item.

H.1-H.4

Time Period for this Stage: July 1, 2026 - June 30, 2027				
	Number of Months (N)	Price per Month (PPM)	Total Price (N*PPM)	Calculated Percent Total Price (Total Price/Total Stage Price *100)
(H.1) Fixed Monthly Payments	12	\$169,913.80	\$2,038,965.60	49%
(H.2) Licenses Price[1]	N/A	N/A	\$1,746,337.39	42%
(H.3) Configuration/ Customization Price[2]	N/A	N/A	\$383,448.00	9%
(H.4) Total Stage Price (Sum H.1 - H.3)	N/A	N/A	\$4,168,750.99	100%

[1] License information shall also be included as a line item in Pricing Schedule L – Licenses.

[2] Total amount from Schedule K - Configuration and Customization, shall be transferred for this line item.

I.1-I.4

Time Period for this Stage: July 1, 2027 – December 31, 2027				
	Number of Months (N)	Price per Month (PPM)	Total Price (N*PPM)	Calculated Percent Total Price (Total Price/Total Stage Price *100)
(I.1) Fixed Monthly Payments	6	\$163,581.14	\$981,486.84	47%
(I.2) Licenses Price[1]	N/A	N/A	\$912,438.14	44%
(I.3) Configuration/ Customization Price[2]	N/A	N/A	\$191,724.00	9%
(I.4) Total Stage Price (Sum I.1 - I.3)	N/A	N/A	\$2,085,648.98	100%

[1] License information shall also be included as a line item in Pricing Schedule L – Licenses.

[2] Total amount from Schedule K - Configuration and Customization, shall be transferred for this line item.

J.1-J.9

Optional Enhancements[1]	Price	
Document Management - Mandatory Pricing	(J.1)	\$6,369,851.97
EDI Call Center - Mandatory Pricing	(J.2)	\$1,850,000.00
Secure Web Portal Dashboard for Authentication, Authorization and SSO (utilizing ICAM) - Mandatory Pricing	(J.3)	\$91,809.00
Meeting Space - Optional Pricing	(J.4)	N/A
Additional Offeror Specific Optional Item	(J.5)	\$909,522.00
Additional Offeror Specific Optional Item	(J.6)	N/A
Additional Offeror Specific Optional Item	(J.7)	N/A
Additional Offeror Specific Optional Item	(J.8)	N/A
Total Price for Optional Enhancements[2]	(J.9)	\$9,221,182.97
(Sum J.1 - J.8)		

[1] NOTE: Optional enhancements and costs are for informational purposes and will not be included in the scoring of the pricing proposals or the scoring of SWaM Plans but may be discussed and included during contract negotiations.

[2] The Offeror may add additional rows as necessary to capture pricing for additional proposed options to the solutions.

K.1-K.9

# Staff Assigned	Primary Job Assignment	Total Hours	Hourly Rate[1]	Total Price	
1.0 FTE	Configuration Staff	2,080	\$75.00	(K.1)	\$156,000.00
1.0 FTE	Customization Staff	2,080	\$70.00	(K.2)	\$156,000.00
2.0 FTE	TOTAL Configuration and Customization Staff <i>(sum of K.1 and K.2)</i>	4,160		(K.3)	\$312,000.00
Staff to Support 4,160 hours Configuration and Customization per year					
	Testing and Validation Staff	312	\$60.00	(K.4)	\$18,720.00
	Business Analyst Staff	250	\$75.00	(K.5)	\$18,720.00
	Technical Writing and System Documentation Staff	62	\$45.00	(K.6)	\$2,808.00
	Project Management Staff	208	\$150.00	(K.7)	\$31,200.00
	TOTAL for Configuration and Customization Support Staff <i>(sum of K.4, K.5, K.6, and K.7)</i>	2,772		(K.8)	\$71,448.00
	TOTAL for providing 4160 hours of Configuration and Customization <i>(sum of K.3 and K.8)</i>			(K.9)[2]	\$383,448.00
Cost of Living Assessment (COLA) Factor (Per SFY) if the Department requires the purchase of additional Enhancement hours.					3%

[1] Hourly Rates shall be effective from DDI Contract Stage 1, SFY 2016-17, through contract based period, O&M Contract Stage SFY2025-26.

[2] Transfer total amount to items B.3, C.3, D.3, E.3, F.3, G.3, H.3, and I.3 on Schedules B through I.

L.1-L.7

<i>License Description</i>	<i>Quantity</i>	<i>Unit Price</i>	<i>Total Price</i>
<i>(Terms and Options)</i>			
<i>Centralized Configuration</i>	2	<i>\$2,670,376.51</i>	<i>\$5,340,753.02</i>
<i>Monitoring & Auditing</i>	2	<i>\$1,201,771.63</i>	<i>\$2,403,543.26</i>
<i>Infrastructure</i>	2	<i>\$322,851.05</i>	<i>\$645,702.10</i>
<i>Portal & Reports</i>	2	<i>\$306,043.27</i>	<i>\$612,086.54</i>
<i>Development & Testing</i>	2	<i>\$358,411.69</i>	<i>\$716,823.38</i>
<i>Document Management</i>	2	<i>\$59,979.50</i>	<i>\$119,959.00</i>
<i>File Transfer</i>	2	<i>\$47,104.03</i>	<i>\$94,208.06</i>
<i>ICAM</i>	2	<i>\$3,359,364.26</i>	<i>\$6,718,728.52</i>
<i>Total Licensing Price</i>		<i>\$8,325,901.94</i>	<i>\$16,651,803.88</i>
<i>(sum of L.1, L.2 L.3, L.4, L.5, and L.6)</i>			

[1] Transfer total amount to appropriate line item on Schedule A through Schedule I.

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Schedule M

Labor Category[1]	Hourly Rate
Project Executive	\$332.00
Project Manager	\$300.00
Application Manager	\$280.00
Technical Project Manager	\$255.00
Training/Implementation Manager	\$255.00
Business Analyst	\$125.00
Track Lead	\$205.00
Implementation Specialist 1	\$132.00
Implementation Specialist 2	\$162.00
Senior Programmer/Analyst	\$137.00
Programmer/Analyst 1	\$82.00
Programmer/Analyst 2	\$102.00
Programmer/Analyst 3	\$120.00
Software Test Specialist Lead	\$140.00
Software Test Specialist 1	\$72.00
Software Test Specialist 2	\$87.00
Software Test Specialist 3	\$105.00
Trainer 1	\$82.00
Trainer 2	\$102.00
Trainer 3	\$120.00
Technical Writer 1	\$60.00
Technical Writer 2	\$100.00
Help Desk Support Lead	\$95.00
Help Desk Support Staff	\$60.00
Technical Architect	\$120.00
Sr. Technical Architect	\$150.00
Technical Architect Lead	\$180.00
Database Specialist 1	\$102.00
Database Specialist 2	\$130.00
Optional OCM Senior Manager	\$195.00
Optional OCM Manager	\$165.00

[1] Offeror shall complete this table and expand as necessary to capture all labor categories to be used by them in the performance of their proposed solution.

Schedule N

Pricing Stage	Price Line #	Price
Total Implementation Contract Stage 1 - SFY 2018 (Total Stage Price from Schedule A.5)	(A.5)	\$15,737,945.56
Total Implementation Contract Stage 1 - SFY 2019 (Total Stage Price from Schedule A.10)	(A.10)	\$4,389,012.06
Total Implementation Contract Stage 1 - SFY 2020 (Total Stage Price from Schedule A.16)	(A.16)	\$2,194,505.97
Implementation Subtotal (Sum A.5, A.10, and A.16)	(DDI)	\$22,321,463.59
Total Ongoing Operations and Maintenance, Contract Stage -SFY 2020 (6 Months) (Total Stage Price from Schedule B.4)	(B.4)	\$2,197,389.50
Total Ongoing Operations and Maintenance, Contract Stage - SFY 2021 (Total Stage Price from Schedule B.8)	(B.8)	\$4,373,923.99
Total Ongoing Operations and Maintenance, Contract Stage - SFY 2022 (Total Stage Price from Schedule C)	(C.4)	\$4,309,569.98
Total Ongoing Operations and Maintenance, Contract Stage - SFY 2023 (Total Stage Price from Schedule D)	(D.4)	\$4,213,447.54
Total Ongoing Operations and Maintenance, Contract Stage - SFY 2024 (Total Stage Price from Schedule E)	(E.4)	\$4,036,956.05
Total Ongoing Operations and Maintenance, Contract Stage - SFY 2025 (6 Months) (Total Stage Price from Schedule F.4)	(F.4)	\$1,956,544.00
Total Ongoing Operations and Maintenance, Contract Stage - SFY 2025 (Option Year Renewal) (6 Months) (Total Stage Price from Schedule F.8)	(F.8)	\$2,006,726.58
Total Ongoing Operations and Maintenance, Contract Stage - SFY 2026 (Option Year Renewal) (Total Stage Price from Schedule G)	(G.4)	\$4,089,828.56
Total Ongoing Operations and Maintenance, Contract Stage - SFY 2027 (Option Year Renewal) (Total Stage Price from Schedule H)	(H.4)	\$4,168,750.99
Total Ongoing Operations and Maintenance, Contract Stage - SFY 2028 (Option Year Renewal) (6 Months) (Total Stage Price from Schedule I)	(I.4)	\$2,085,648.98
Operations and Maintenance Subtotal (Sum B.4, C.4 D.4, E.4, F.4, G.4, H.4 and I.4)	(O&M)	\$33,438,786.17
Total Price Bid[1] (sum of A.5, A.10 and O&M)	(Total)	\$55,760,249.76

Note: Adjusted dates in table above to align with new timeline.

[1] The total price bid will also be used for SWaM scoring purposes.

Small Business (SWAM) Procurement Plan

File 2

9.b.2.2, Volume 2 – Cost Proposal; File 2: Small Business (SWAM) Procurement Plan, page 91

Contractor shall provide a completed SWAM Procurement Plan, which is included in RFP Appendix B, according to the instructions laid forth in RFP Section 9.c, Small Business (SWAM) Procurement Plan.

Deloitte aims to provide quality staff for every project through a combination of its own staff with required skills and, as necessary, augmenting the team with qualified and proficient staff from the firm's qualified business partners. As prime contractor, Deloitte assumes full responsibility for managing its own staff, and that of its business partners who are deployed on the project.

In recognition of the importance the Commonwealth places on Small Business/Minority Business Enterprise program we are committing a percentage of the work effort to SWAM vendors of the Commonwealth of Virginia. For this proposal, we have identified Impact Makers, Inc. and Collasys LLC as the organizations to meet the requirements of our Small Business Subcontracting Plan.

As required by the RFP, we have completed the SWAM Procurement Plan, which was provided as Appendix B, and as according to the instructions laid for in RFP Section 9.c, Small Business (SWAM) Procurement Plan.

Appendix B - SWAM Procurement and Subcontracting Monthly Report and Small Business (SWAM) Procurement Plan

A. SMALL, WOMEN-OWNED, AND MINORITY-OWNED BUSINESS (SWAM) PROCUREMENT AND SUBCONTRACTING QUARTERLY REPORT

On a quarterly basis, Contractor shall submit to DMAS evidence of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the small business subcontracting plan. Upon completion of the contract, the Contractor agrees to furnish the purchasing office at a minimum the following information: name of firm with the SBSB certification number, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product or service provided. Payment(s) may be withheld until compliance with the plan is received and confirmed by the agency or institution. The agency or institution reserves the right to pursue other appropriate remedies for non-compliance to include, but not be limited to, termination for default.

Contractor's quarterly report shall include spend on all Contractor's contracts with second-tier small business suppliers which provide products or Service/Solution under this Contract. The report shall specify the amount of such spend provided to SWaM vendors, by SWaM category, regardless of such SWaM vendors' certification status. Contractor shall submit the report to BCM@dmas.virginia.gov.

B. SWAM Procurement Plan

All small businesses must be certified by the Virginia Department of Small Business and Supplier Diversity (DSBSD) by the due date for receipt of bids Certification applications are available through SBSB online at <http://www.sbsd.virginia.gov/>.

Offeror Name: Deloitte Consulting LLP

Preparer Name: Don Parr

Date: 3/3/16

Instructions

A. If you are certified by the DSBSD as a small business or as a micro business, complete only Section A of this form. This shall not exclude DSBSD-certified women, minority or service-disabled veterans-owned businesses when they have received DSBSD small business certification.

B. If you are not a DSBSD-certified small business, complete Section B of this form.

Section A

If your firm is certified by the DSBSD are you certified as a (**check all that apply**):

- Small Business
- Small and Women-owned Business
- Small and Minority-owned Business
- Small Service Disabled Veteran-owned Business
- Small Service Disabled Veteran-owned Business
- Micro Business
- Micro Business and Women-owned Business
- Micro Business and Minority-owned Business
- Micro Service Disabled Veteran-owned Business

Certification Number: _____ Certification Date: _____

Section B

Populate the table below to show your firm's plans for utilization of SBSB-certified small businesses in the performance of this contract. This shall not exclude SBSB-certified micro businesses or women, minority or service disabled veteran-owned businesses when they have received the SBSB small business certification. Include plans to use small businesses as part of joint ventures, partnerships, subcontractors, etc.

Small Business Name & Address DMBE Certificate #	Status if Small Business is also: Women (W), Minority (M) Service- Disabled Veteran (D), Service- Disabled Veteran (D), Micro Business (MB)	Contact Person, Telephone & Email	Type of Goods and/or Services	Planned Involvement During Initial Period of the Contract	Planned Contract Dollars During Initial Period of the Contract
Impact Makers, Inc. SWAM Certification Number: 670781		Rodney T. Willett Vice President Business Strategy +1 804 363 1534 rwillett@impactmakers.com	Management Consulting	Members of delivery team	1%
Collasys LLC SWaM Certification Number: 690124	Minority (M)	Genga Ramamoorthy +1 248 872 8201 genga@collasys.com	Management Consulting	Members of delivery team	10%

Figure 2-1. SBSB Utilization.

Deloitte.

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Tasks Completed	Deliverables included	Weeks from signing	Delivery Date	Approval Period (Days)	Invoice Date	Invoice Value	QA Held back 7%	CMS-Cert Held back 3%	Net Payable	Cumulative Payment	% paid	
Project Start					2/1/2018							
Invoice # 1					2/25/2018		\$114,433	\$8,010	\$3,433	\$102,990	\$102,990	0.46%
	Meeting Summary	1	2/8/2018	5								
	Milestone Payment Chart	2	2/15/2018	10								
	Final Deliverable List	2	2/15/2018	10								
Invoice # 2					2/25/2018		\$2,191,968	\$153,438	\$65,759	\$1,972,771	\$2,075,761	9.30%
ICAM & ISS Licenses (35%)		2	2/15/2018	10								
Requirements, Planning & Setup					3/25/2018							
Invoice # 3					3/25/2018		\$468,466	\$32,793	\$14,054	\$421,620	\$2,497,381	11.19%
Initial Planning documents completed	Include Week 2 to 6 PM deliverables	6	3/15/2018	10								
Requirements gathering for ISS Core & ICAM begins	Include RTM (Initial) with Req Management plan completed	6	3/15/2018	10								
	Master Integration Plan-Initial	6	3/15/2018	10								
	Enterprise Integration Change Management Process	6	3/15/2018	10								
	Root Cause Analysis Process	6	3/15/2018	10								
	Policy & Procedures Manual- Template	6	3/15/2018	10								
Document Management Tool (SP) deployed	Access to SP	6	3/15/2018	10								
Invoice # 4					4/13/2018		\$369,598	\$25,872	\$11,088	\$332,638	\$2,830,019	12.68%
Schedule Management Tool (SMT) Deployed	SMT- Test Cases and Results	8	3/29/2018	15								
Master Integration Schedule update process implemented	Master Schedule Update	8	3/29/2018	15								
Change Management Tools (CMT) Deployed	CMT -Test Cases and Results	8	3/29/2018	15								
Enterprise Change Management Process Implemented- CCB Meeting kickoff	CCB meeting minutes	8	3/29/2018	15								
Weekly PM Oversight, Updates and Status	8 Updates	8	3/29/2018	15								
Invoice # 5					6/8/2018		\$698,631	\$48,904	\$20,959	\$628,768	\$3,458,787	15.50%
EA Tools (Process Blueprint) deployed	EA Tools- Test Cases and Results	12	4/26/2018	15								
Additional Planning Documents completed	Include week 8 to 12 deliverables	12	4/26/2018	15								
Master Integration Plan Complete	Master Integration Plan- Final	12	4/26/2018	15								
Security Plan- Version 1 completed	Security plan document	12	4/26/2018	30								
	Security policy cover letter signed by CEO or delegate	12	4/26/2018	15								
CMS Certification Plan Completed	CMS Certification Plan	16	5/24/2018	15								
CMS Certification Checkpoint - R1 Completed	R1- Completion report	16	5/24/2018	15								
Weekly PM Oversight, Updates and Status	8 Updates	16	5/24/2018	15								
Invoice # 6					7/20/2018		\$488,175	\$34,172	\$14,645	\$439,357	\$3,898,144	17.46%
ISS Core (Intg services MFTS, all environments & connectivity) deployed & setup	1) RTM Updated, 2) EA Updates: SOA Artifacts - Business Process Design											
	EA Updates: SOA Artifacts, Integration Services											
	ISS Core V1 - Test Cases and Results (Unit & SIT)											
Weekly PM Oversight, Updates and Status	6 Updates	22	7/5/2018	15								

Invoice # 7					7/20/2018	\$939,734	\$65,781	\$28,192	\$845,760	\$4,743,904	21.25%
ICAM & ISS Licenses (15%)		22	7/5/2018	15							
Invoice # 8					8/17/2018	\$309,603	\$21,672	\$9,288	\$278,643	\$5,022,547	22.50%
ISS Core (ICAM) deployed & setup	1) RTM Updated, 2) EA Updates: SOA Artifacts - Business Process Design										
	ISS Core V2 - Test Cases and Results (Unit & SIT)										
	EA Updates: SOA Artifacts, ICAM setup										
Weekly PM Oversight, Updates and Status	4 Updates	26	8/2/2018	15							
Invoice # 9					8/31/2018	\$223,072	\$15,615	\$6,692	\$200,765	\$5,223,313	23.40%
Sec 525 Audit - 1	Successful Audit	28	8/16/2018	15							
Invoice # 10					9/21/2018	\$554,642	\$38,825	\$16,639	\$499,178	\$5,722,490	25.64%
ISS Core - MFTS UAT Completed											
MFTS in Production	MFTS operational Documentation										
Weekly PM Oversight, Updates and Status	5 Updates	31	9/6/2018	15							
Invoice # 11					9/23/2018	\$939,734	\$65,781	\$28,192	\$845,760	\$6,568,250	29.43%
ICAM & ISS Licenses (15%)		32	9/13/2018	10							
Q-A Recovery- FFY 2018		Invoice # 12	33	9/30/2018					\$510,864	\$7,079,114	31.71%
Invoice # 13					10/26/2018	\$556,874	\$38,981	\$16,706	\$501,187	\$7,580,301	33.96%
ICAM -Integration for available modules (PBMS, EDWS, EPS, Appeals, +..)	1) RTM Updated, 2) EA Updates: SOA Artifacts - Business Process Design										
	EA Updates: SOA Artifacts										
	ISS ICAM - Test Cases and Results (Unit & SIT)										
ICAM UAT Completed											
ICAM in Production	ICAM operational Documentation										
Weekly PM Oversight, Updates and Status	5 Updates	36	10/11/2018	15							
Solution Design / Develop											
Invoice # 14					11/28/2018	\$892,858	\$62,500	\$26,786	\$803,573	\$8,383,874	37.56%
ISS- Integration Design / Logical Solution Models Version 1 Complete	EA Updates: SOA Artifacts- Information Systems Design Phase & Technology Design Phase										
	DSD - 1/2										
Weekly PM Oversight, Updates and Status	4 Updates	40	11/8/2018	20							
Invoice # 15					12/26/2018	\$669,644	\$46,875	\$20,089	\$602,679	\$8,986,553	40.26%
ISS- Integration Design / Logical Solution Models Version 2 Complete	EA Updates : SOA Artifacts- Information Systems Design Phase & Technology Design Phase										
	DSD- 2/2										
Weekly PM Oversight, Updates and Status	4 Updates	44	12/6/2018	20							
Solution Build/ Implement - I											
Invoice # 16					2/6/2019	\$842,873	\$59,001	\$25,286	\$758,586	\$9,745,139	43.66%

Weekly PM Oversight, Updates and Status	4 updates	78	8/1/2019	20									
UAT													
Invoice # 24					10/16/2019	\$556,395	\$38,948	\$16,692	\$500,755	\$15,172,973	67.97%		
Solution UAT - 1 Complete	UAT - Results compiled by DMAS												
Weekly PM Oversight, Updates and Status	8 Updates	86	9/26/2019	20									
Q-A Recovery- FFY 2019					9/30/2019				\$629,522	\$15,802,495	70.80%		
Invoice # 25					12/11/2019	\$558,337	\$39,084	\$16,750	\$502,503	\$16,304,999	73.05%		
Solution UAT-2 Complete	UAT - Results compiled by DMAS												
Stress Testing 1 Complete	Stress Testing 1 Results												
	EA Updates: SOA Artifacts- ALL PHASES As needed												
Weekly PM Oversight, Updates and Status	8 Updates	94	11/21/2019	20									
Invoice # 26					1/15/2020	\$446,729	\$31,271	\$13,402	\$402,057	\$16,707,055	74.85%		
Initiate Operational Planning	Implementation and Transition Plan												
	SLA Reporting App												
	Release Management Plan												
	Op Doc: End user Guide												
	Op Doc: Online Doc (w/online search capability/context sensitive help screens)												
	Op Doc: Windows/screens Illustrations												
	Op Doc: Writing style guides for all documentation												
	EA Updates: SOA Artifacts- ALL PHASES As needed												
Weekly PM Oversight, Updates and Status	5 Updates	99	12/26/2019	20									
Operational Readiness													
Invoice # 27					2/19/2020	\$824,323	\$57,703	\$24,730	\$741,891	\$17,448,946	78.17%		
Operational Readiness (OR 1) Test Completed													
Stress Testing - 2 Complete	Stress Testing -2 results												
End to End Testing - 1 Complete	End to End Testing - 1 Results												
Complete Operational Documentation	End user Guide												
	Online Doc (w/online search capability/context sensitive help screens)												
	Windows/screens Illustrations												
	Writing style guides for all documentation												
CMS Certification Checkpoint - R2 Completed	R2- Completion report												
Weekly PM Oversight, Updates and Status	5 Updates	104	1/30/2020	20									
Invoice # 28					3/18/2020	\$446,429	\$31,250	\$13,393	\$401,786	\$17,850,732	79.97%		
Conduct DR Testing	DR Testing results												
	Disaster Recovery Plan												
	Business Continuity Plan												
Escrow verification completed	Escrow Plan												

	EA Updates: SOA Artifacts- ALL PHASES As needed											
Weekly PM Oversight, Updates and Status	4 Updates	108	2/27/2020	20								
Invoice # 30					4/22/2020	\$984,896	\$68,943	\$29,547	\$886,406	\$18,737,139	83.94%	
Operational Readiness (OR 2) Test Completed												
End to End Testing - 2 Completed	End to End Testing - 2 Results											
Complete Operational Documentation	Policy & Procedures Manual											
	SLA Reporting App											
	Service Management Manual											
	Operational Documentation											
	EA Updates: SOA Artifacts- ALL PHASES As needed											
Weekly PM Oversight, Updates and Status	5 Updates	113	4/2/2020	20								
Cut-Over / Production												
Invoice # 31					4/26/2020	\$272,996	\$19,110	\$8,190	\$245,696	\$18,982,835	85.04%	
Solution in Production; Cut-Over Support Completed	EA Updates: SOA Artifacts- ALL PHASES As needed											
Weekly PM Oversight, Updates and Status	2 Updates	115	4/16/2020	10								
Invoice # 32					4/26/2020	\$1,252,234	\$87,656	\$37,567	\$1,127,011	\$20,109,846	90.09%	
ICAM & ISS Licenses (20%)		115	4/16/2020	10								
Stabilize												
Invoice # 33					6/5/2020	\$548,585	\$38,401	\$16,458	\$493,726	\$20,603,572	92.30%	
Stabilize												
CMS Certification checklist completed	CMS checklist											
Weekly PM Oversight, Updates and Status	5 Updates	120	5/21/2020	15								
Invoice # 34					7/10/2020	\$695,700	\$48,699	\$20,871	\$626,130	\$21,229,702	95.11%	
Stabilize												
Turnover Plan Completed	Turnover Plan											
Project Closeout	Close Out Report											
Weekly PM Oversight, Updates and Status	5 Updates	125	6/25/2020	15								
Q-A Recovery- FFY 2020		Invoice # 35	126		7/10/2020				\$422,116	\$21,651,818	97.00%	
Operations												
Invoice # 36					10/23/2020				\$669,644	\$22,321,462	100.00%	
CMS - Certification		140	10/8/2020	15								
						\$22,321,462	\$1,562,502	\$669,644	\$22,321,462			



COMMONWEALTH of VIRGINIA
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES
600 East Broad Street, Suite 1300
Richmond, VA 23219

November 28, 2017

VIA: E-mail

Dear Mr. Erdahl:

DMAS would like to thank Deloitte Consulting LLP (Deloitte) for its continued interest in Request for Proposal (RFP 2016-04) for an **Integrated Services Solution (ISS)**. DMAS is in the final stages of evaluation, and in order to facilitate further discussions of a **potential** contract, hereby provides a summary of the evaluation & negotiation points as of the date of this letter, stated below:

- **Hosting:**
 - Deloitte will provide MES ISS hosting at IBM SoftLayer, with Primary Datacenter Ashburn, VA and Secondary Datacenter for disaster recovery and business continuity at Richardson, TX.
 - Deloitte will provide connectivity to the CESC and DMAS's cloud exchange using Point to Point VPN, furnishing the necessary bandwidth to meet the Service Level Agreements (SLAs) established in the RFP, at no additional cost. Deloitte will provide dedicated circuits if requested by DMAS at an additional cost.
 - Hosting includes iKeyman as the utility for the management of encryption keys/certificates. The production environment will have a dedicated instance of iKeyman.
 - Identity, Credential, And Access Management (ICAM) licensing is based on 40,000 UVU (User Value Units) & Virtual CPUs (not per user), allowing support for all MES user accounts. In addition, the licensing will not limit the use of ICAM solution for Non-MES DMAS applications. Configuring the solution to support non-MES DMAS applications may have an additional cost.

- **Timeframe for Project:**
 - Anticipated start date is still TBD, but DMAS will be communicated with the winning Offeror as soon as it has been determined. The draft contract and milestone charts will be updated in advance of final execution.
 - The DDI phase will be a minimum of 24 months with DMAS option to extend the DDI Phase up to a maximum of 30 months (with no cost increase if the period extends beyond 24 months).

- The overall schedule and pricing is reflective of a 30-month DDI period and a fixed annual cost for each year of O&M (1-5).
 - Consistent with DMAS' directions, O&M Payments would commence at the end of the DDI phase, and a start date on the first day of the 25th month from the Contract effective date, or the first day of any month from the 25th month up to the 31st month from the Contract Effective Date, depending upon the length of time necessary for DDI.
- **Optional Services:** None. SSO Portal & Dashboard will be provided at no additional cost to DMAS.
- **Important Changes to the Services and/or Solution:** The original proposal has been modified to adjust the Offeror-proposed Services necessary to provide the Solution to the Department as stated below:
 - Integration Services:
 - Deloitte will provide 64 pre-built & configurable Web Services and support up-to 50 Interfaces as a part of the Solution. Additional custom Web Services will be created as needed to fulfill the requirements.
 - Deloitte will integrate up-to-10 Modules as a part of the project.
 - Deloitte will provide up to 72 Master Integration Planning workshops to include DMAS and MES Module Contractors.
 - Deloitte will conduct 26, one-day training sessions to address various units of the Solution/topics. Each session will have up to 20 people.
 - Deloitte will provide the SSO Portal and Dashboard (listed as optional items in the RFP) at no additional cost to DMAS.
 - Deloitte will provide all deliverables listed in RFP. Any consolidations of the artifacts to gain efficiency will be mutually agreed to by the Parties during the DDI planning phase.
 - DMAS and Deloitte have agreed to payment terms based on the **Milestone Based Payment Schedule**. (See Attached).
- **Costs**
 - The most recent Cost Proposal, dated 03/29/2017, sets the current price over the life of the Contract to be \$55,760,250.00.
 - The Total Value of DDI is to be payed upon the then-current Milestone Based Payment Schedule, with the remaining yearly O&M fee to be paid in equal monthly installments during each contract year.
- **Contract Documentation**

The Department provides the following documentation to represent the embodiment of all Contract negotiated terms as of the date of this letter.

 - “RFP 2016-04 - ISS - VA DMAS Contract (11-27-2017)”
 - “RFP 2016-04 - ISS - VA DMAS Exhibit G (11-17-2017)”

The Departments intends that the named files above will serve as final legal instruments, excepting the modification of dates & non-substantive editorial corrections before execution, should negotiations progress and a final award be made to the Supplier, unless further communications to the Supplier, after the date on this letter, indicate otherwise.

Please submit a signed copy of this letter as acknowledgement of negotiations to this point, back to DMAS by as soon as possible. **Please contact the Department as soon as possible if you identify any errors or omissions in the information provided.** Also, please acknowledge in your response whether proprietary/confidential information is included and, if applicable, provide a redacted (proprietary and confidential information removed) electronic copy in PDF format.

In order to expedite your response, please feel free to email your response by the deadline to me at Kayla.Anderson@dmas.virginia.gov and copy Chris.Banaszak@dmas.virginia.gov. The original hard copies should follow-up via mail or overnight delivery to Chris Banaszak. If you have any questions concerning this request, or the statements in this letter, please feel free to contact me at 804-371-2645.

Sincerely,

A handwritten signature in black ink that reads "Kayla Anderson". The signature is fluid and cursive, with the first name "Kayla" and last name "Anderson" clearly distinguishable.

Kayla Anderson
DMAS Procurement & Contract Officer

Attachment

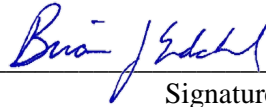
CC: Chris Banaszak
Chris Foca
Frank Guinan
Mukundan Srinivasan
Ajay Rohatgi



COMMONWEALTH of VIRGINIA
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

RFP 2016-04 NEGOTIATION SUMMARY

Offeror/Supplier certifies the above statement to be an accurate description of negotiated points under RFP # 2016-04 – Integrated Services Solution (ISS). Offeror/Supplier certifies that Deloitte Consulting LLP understands that its selection for negotiation by DMAS, as noted in Section 20.5 of the RFP, is a further step in the RFP process, and in no way constitutes a guarantee that Offeror/Supplier will be awarded a contract, in whole or in part. Offeror/Supplier further certifies that the under-signed is legally authorized to sign on behalf of Deloitte Consulting LLP.


Signature

Principal
Title

11/29/2017
Date

EXHIBIT C – ESCROW AGREEMENT



Effective Date	03/15/2018
Deposit Account Number	51440
*Effective Date and Deposit Account Number to be supplied by Iron Mountain only.	

Three-Party Escrow Service Agreement

1. Introduction

This Three Party Escrow Service Agreement (the "**Agreement**") is entered into by and between Deloitte Consulting LLP (the "**Depositor**"), and by the Commonwealth of Virginia (the "**Beneficiary**") and by Iron Mountain Intellectual Property Management, Inc. ("**Iron Mountain**"). Depositor, Beneficiary, and Iron Mountain may be referred to individually as a "**Party**" or collectively as the "**Parties**" throughout this Agreement.

- (a) The use of the term services in this Agreement shall refer to Iron Mountain services that facilitate the creation, management, and enforcement of software or other technology escrow accounts as described in Exhibit A attached to this Agreement ("**Services**"). A Party shall request Services under this Agreement by selecting such Service on Exhibit A upon execution of the Agreement or by submitting a work request for certain Iron Mountain Services ("**Work Request**") via written instruction or the online portal maintained at the website located at www.ironmountainconnect.com or other websites owned or controlled by Iron Mountain that are linked to that website (collectively the "**Iron Mountain Website**").
- (b) The Beneficiary and Depositor have, or will have, entered into a license agreement or other agreement ("**License Agreement**") conveying intellectual property rights to the Beneficiary, and the Parties intend this Agreement to be considered as supplementary to such agreement, pursuant to Title 11 United States [Bankruptcy] Code, Section 365(n).

2. Depositor Responsibilities and Representations

- (a) It shall be solely the Depositor's responsibility to: (i) make an initial deposit of all proprietary technology and other materials covered under this Agreement ("**Deposit Material**") to Iron Mountain within fourteen (14) days of the completion of the Deposit Material; (ii) make any required updates to the Deposit Material during the Term (as defined below) of this Agreement; and (iii) ensure that a minimum of one (1) copy of Deposit Material is deposited with Iron Mountain at all times. At the time of each deposit or update, Depositor will provide an accurate and complete description of all Deposit Material sent to Iron Mountain using the form attached to this Agreement as Exhibit B.
- (b) Depositor represents that it lawfully possesses all Deposit Material provided to Iron Mountain under this Agreement and that any current or future Deposit Material liens or encumbrances will not prohibit, limit, or alter the rights and obligations of Iron Mountain under this Agreement. Depositor warrants that with respect to the Deposit Material, Iron Mountain's proper administration of this Agreement will not violate the rights of any third parties.
- (c) Depositor represents that all Deposit Material is readable and useable in its then current form; if any portion of such Deposit Material is encrypted, the necessary decryption tools and keys to read such material are deposited contemporaneously.

3. Beneficiary Responsibilities and Representations

- (a) Beneficiary acknowledges that, as between Iron Mountain and Beneficiary, Iron Mountain's obligation is to maintain the Deposit Material as delivered by the Depositor and that, other than Iron Mountain's inspection of the Deposit Material (as described in Section 4) and the performance of any of the optional verification Services listed in Exhibit A, Iron Mountain has no other obligation regarding the completeness, accuracy, or functionality of the Deposit Material.
- (b) It shall be solely the Beneficiary's responsibility to monitor whether a deposit or deposit update has been accepted by Iron Mountain.

4. Iron Mountain Responsibilities and Representations

- (a) Iron Mountain agrees to use commercially reasonable efforts to provide the Services requested by Authorized Person(s) (as identified in the "**Authorized Person(s)/Notices Table**" below) representing the Depositor or Beneficiary in a Work Request. Iron Mountain may reject a Work Request (in whole or in part) that does not contain all required information at any time upon notification to the Party originating the Work Request.
- (b) Iron Mountain will conduct a visual inspection upon receipt of any Deposit Material and associated Exhibit B. If Iron Mountain determines that the Deposit Material does not match the description provided by Depositor represented in Exhibit B, Iron Mountain will notify Depositor of such discrepancy.

- (c) Iron Mountain will provide notice to the Beneficiary of all Deposit Material that is accepted and deposited into the escrow account under this Agreement. Either Depositor or Beneficiary may obtain information regarding deposits or deposit updates upon request or through the Iron Mountain Website.
- (d) Iron Mountain will follow the provisions of Exhibit C attached to this Agreement in administering the release of Deposit Material.
- (e) Iron Mountain will hold and protect Deposit Material in physical or electronic vaults that are either owned or under the control of Iron Mountain, unless otherwise agreed to by the Parties.
- (f) Upon receipt of written instructions by both Depositor and Beneficiary, Iron Mountain will permit the replacement or removal of previously submitted Deposit Material. The Party making such request shall be responsible for getting the other Party to approve the joint instructions. Any Deposit Material that is removed from the deposit account will be either returned to Depositor or destroyed in accordance with Depositor's written instructions.
- (g) Should transport of Deposit Material be necessary for Iron Mountain to perform Services requested by Depositor or Beneficiary under this Agreement or following the termination of this Agreement, Iron Mountain will use a commercially recognized overnight carrier such as Federal Express or United Parcel Service. Iron Mountain will not be responsible for any loss or destruction of, or damage to, such Deposit Material while in the custody of the common carrier.

5. **Deposit Material Verification**

- (a) Beneficiary may submit a verification Work Request to Iron Mountain for one or more of the Services defined in Exhibit A attached to this Agreement and Depositor consents to Iron Mountain's performance of any level(s) of such Services. Upon request by Iron Mountain and in support of Beneficiary's request for verification Services, Depositor shall promptly complete and return an escrow deposit questionnaire and reasonably cooperate with Iron Mountain by providing reasonable access to its technical personnel whenever reasonably necessary.
- (b) The Parties consent to Iron Mountain's use of a subcontractor to perform verification Services. Such subcontractor shall be bound by the same confidentiality obligations as Iron Mountain and shall not be a direct competitor to either Depositor or Beneficiary. Iron Mountain shall be responsible for the delivery of Services of any such subcontractor as if Iron Mountain had performed the Services. Depositor warrants and Beneficiary warrants that any material it supplies for verification Services is lawful, does not violate the rights of any third parties and is provided with all rights necessary for Iron Mountain to perform verification of the Deposit Material.
- (c) Iron Mountain will work with a Party who submits any verification Work Request for Deposit Material covered under this Agreement to either fulfill any standard verification Services Work Request or develop a custom Statement of Work ("**SOW**"). Iron Mountain and the requesting Party will mutually agree in writing to an SOW on terms and conditions that include but are not limited to: description of Deposit Material to be tested; description of verification testing; requesting Party responsibilities; Iron Mountain responsibilities; Service Fees; invoice payment instructions; designation of the paying Party; designation of authorized SOW representatives for both the requesting Party and Iron Mountain with name and contact information; and description of any final deliverables prior to the start of any fulfillment activity. Provided that the requesting Party has identified in the verification Work Request or SOW that the Deposit Material is subject to the regulations of the International Traffic in Arms Regulations (22 CFR 120)(hereinafter "**ITAR**"), Iron Mountain shall ensure that any subcontractor who is granted access to the Deposit Material for the performance of verification Services shall be a U.S. Person as defined in 8 U.S.C. 1101(a)(20) or who is a protected person as defined in 8 U.S.C. 1324b(a)(3). After the start of fulfillment activity, each SOW may only be amended or modified in writing with the mutual agreement of both Parties, in accordance with the change control procedures set forth in the SOW. If the verification Services extend beyond those described in Exhibit A, the Depositor shall be a necessary Party to the SOW governing the Services.

6. **Payment**

The Party responsible for payment designated in the Paying Party Billing Contact Table ("**Paying Party**") shall pay to Iron Mountain all fees as set forth in the Work Request ("**Service Fees**"). All Service Fees are due within thirty (30) calendar days from the date of invoice in U.S. currency and are non-refundable. Iron Mountain may update Service Fees with a ninety (90) calendar day written notice to the Paying Party during the Term of this Agreement (as defined below). The Paying Party is liable for any taxes (other than Iron Mountain income taxes) related to Services purchased under this Agreement or shall present to Iron Mountain an exemption certificate acceptable to the taxing authorities. Applicable taxes shall be billed as a separate item on the invoice. Any Service Fees not collected by Iron Mountain when due shall bear interest until paid at a rate of one percent (1%) per month (12% per annum) or the maximum rate permitted by law, whichever is less. Notwithstanding the non-performance of any obligations of Depositor to deliver Deposit Material under the License Agreement or this Agreement, Iron Mountain is entitled to be paid all Service Fees that accrue during the Term of this Agreement.

7. **Term and Termination**

- (a) The term of this Agreement is for a period of one (1) year from the Effective Date ("**Initial Term**") and will automatically renew for additional one (1) year terms ("**Renewal Term**") (collectively the "**Term**"). This Agreement shall continue in full force and effect until one of the following events occur: (i) Depositor and Beneficiary provide Iron Mountain with sixty (60) days' prior written joint notice of their intent to terminate this Agreement; (ii) Beneficiary provides Iron Mountain and Depositor with sixty (60) days' prior written notice of its intent to terminate this Agreement; (iii) the Agreement

terminates under another provision of this Agreement; or (iv) any time after the Initial Term, Iron Mountain provides sixty (60) days' prior written notice to the Depositor and Beneficiary of Iron Mountain's intent to terminate this Agreement. The Effective Date and the Deposit Account Number shall be supplied by Iron Mountain only. The Effective Date supplied by Iron Mountain and specified above shall be the date Iron Mountain sets up the escrow account.

- (b) Unless the express terms of this Agreement provide otherwise, upon termination of this Agreement, Iron Mountain shall return physical Deposit Material to the Depositor and erase electronically submitted Deposit Material. If reasonable attempts to return the physical Deposit Material to Depositor are unsuccessful, Iron Mountain shall destroy the Deposit Material.
- (c) In the event of the nonpayment of undisputed Service Fees owed to Iron Mountain, Iron Mountain shall provide all Parties to this Agreement with written notice of Iron Mountain's intent to terminate this Agreement. Any Party to this Agreement shall have the right to make the payment to Iron Mountain to cure the default. If the past due payment is not received in full by Iron Mountain within thirty (30) calendar days of the date of such written notice, then Iron Mountain shall have the right to terminate this Agreement at any time thereafter by sending written notice to all Parties. Iron Mountain shall have no obligation to perform the Services under this Agreement (except those obligations that survive termination of this Agreement, which includes the confidentiality obligations in Section 10) so long as any undisputed Service Fees due Iron Mountain under this Agreement remain unpaid.

8. Infringement Indemnification

Anything in this Agreement to the contrary notwithstanding, Depositor at its own expense shall defend, indemnify and hold Iron Mountain fully harmless against any claim or action asserted against Iron Mountain (specifically including costs and reasonable attorneys' fees associated with any such claim or action) to the extent such claim or action is based on an assertion that Iron Mountain's administration of this Agreement infringes any patent, copyright, license or other proprietary right of any third party. When Iron Mountain has notice of a claim or action, it shall promptly notify Depositor in writing. Depositor may elect to control the defense of such claim or action or enter into a settlement agreement, provided that no such settlement or defense shall include any admission or implication of wrongdoing on the part of Iron Mountain without Iron Mountain's prior written consent, which consent shall not be unreasonably delayed or withheld. Iron Mountain shall have the right to employ separate counsel and participate in the defense of any claim at its own expense.

9. Warranties

IRON MOUNTAIN WARRANTS ANY AND ALL SERVICES PROVIDED HEREUNDER SHALL BE PERFORMED IN A COMMERCIALY REASONABLE MANNER CONSISTENT WITH INDUSTRY STANDARDS. EXCEPT AS SPECIFIED IN THIS SECTION, ALL CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW. AN AGGRIEVED PARTY MUST NOTIFY IRON MOUNTAIN PROMPTLY UPON LEARNING OF ANY CLAIMED BREACH OF ANY WARRANTY AND, TO THE EXTENT ALLOWED BY APPLICABLE LAW, SUCH PARTY'S REMEDY FOR BREACH OF THIS WARRANTY SHALL BE SUBJECT TO THE LIMITATION OF LIABILITY AND CONSEQUENTIAL DAMAGES WAIVER IN THIS AGREEMENT. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY AND LIMITED REMEDY SET FORTH ABOVE FAILS OF ITS ESSENTIAL PURPOSE.

10. Confidential Information

Iron Mountain shall have the obligation to implement and maintain safeguards designed to protect the confidentiality of the Deposit Material and use at least the same degree of care to safeguard the confidentiality of the Deposit Material as it uses to protect its own confidential information, but in no event less than a reasonable degree of care. Except as provided in this Agreement Iron Mountain shall not use or disclose the Deposit Material. Iron Mountain shall not disclose the terms of this Agreement to any third party other than its financial, technical, or legal advisors, or its administrative support service providers. Any such third party shall be bound by the same confidentiality obligations as Iron Mountain. If Iron Mountain receives a subpoena or any other order from a court or other judicial tribunal pertaining to the disclosure or release of the Deposit Material, Iron Mountain will promptly notify the Parties to this Agreement unless prohibited by law. After notifying the Parties, Iron Mountain may comply in good faith with such order or subpoena. It shall be the responsibility of Depositor or Beneficiary to challenge any such order or subpoena; provided, however, that Iron Mountain does not waive its rights to present its position with respect to any such order or subpoena. Iron Mountain will cooperate with the Depositor or Beneficiary, as applicable, to support efforts to quash or limit any order or subpoena, at such Party's expense.

11. Limitation of Liability

EXCEPT FOR: (I) LIABILITY FOR DEATH OR BODILY INJURY; (II) PROVEN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; OR (III) THE INFRINGEMENT INDEMNIFICATION OBLIGATIONS OF SECTION 8, ALL OTHER LIABILITY RELATED TO THIS AGREEMENT, IF ANY, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, OF ANY PARTY TO THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT EQUAL TO ONE YEAR OF FEES PAID TO IRON MOUNTAIN UNDER THIS AGREEMENT. IF CLAIM OR LOSS IS MADE IN RELATION TO A SPECIFIC DEPOSIT OR DEPOSITS, SUCH LIABILITY SHALL BE LIMITED TO THE FEES RELATED SPECIFICALLY TO SUCH DEPOSITS.

12. Consequential Damages Waiver

IN NO EVENT SHALL ANY PARTY TO THIS AGREEMENT BE LIABLE FOR ANY INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, LOST PROFITS, ANY COSTS OR EXPENSES FOR THE PROCUREMENT OF SUBSTITUTE SERVICES (EXCLUDING SUBSTITUTE ESCROW SERVICES), OR ANY OTHER INDIRECT DAMAGES, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE EVEN IF THE POSSIBILITY THEREOF MAY BE KNOWN IN ADVANCE TO ONE OR MORE PARTIES.

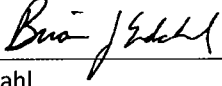
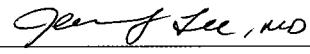
13. General

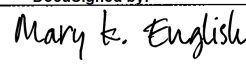
- (a) **Purchase Orders.** In the event that the Paying Party issues a purchase order or other instrument used to pay Service Fees to Iron Mountain, any terms and conditions set forth in the purchase order which constitute terms and conditions which are in addition to those set forth in this Agreement or which establish conflicting terms and conditions to those set forth in this Agreement are expressly rejected by Iron Mountain.
- (b) **Right to Make Copies.** Iron Mountain shall have the right to make copies of all Deposit Material as reasonably necessary to perform the Services. Iron Mountain shall copy all copyright, nondisclosure, and other proprietary notices and titles contained on Deposit Material onto any copies made by Iron Mountain. Any copying expenses incurred by Iron Mountain as a result of a Work Request to copy will be borne by the requesting Party. Iron Mountain may request Depositor's reasonable cooperation in promptly copying Deposit Material in order for Iron Mountain to perform this Agreement.
- (c) **Choice of Law.** The validity, interpretation, and performance of this Agreement shall be construed under the laws of the Commonwealth of Massachusetts, USA, without giving effect to the principles of conflicts of laws.
- (d) **Authorized Person(s).** Depositor and Beneficiary must each authorize and designate one person whose actions will legally bind such Party ("**Authorized Person**" who shall be identified in the Authorized Person(s) Notices Table of this Agreement or such Party's legal representative) and who may manage the Iron Mountain escrow account through the Iron Mountain website or written instruction. Depositor and Beneficiary warrant that they shall maintain the accuracy of the name and contact information of their respective designated Authorized Person during the Term of this Agreement by providing Iron Mountain with a written request to update its records for the Party's respective Authorized Person which includes the updated information and applicable deposit account number(s).
- (e) **Right to Rely on Instructions.** With respect to release of Deposit Material or the destruction of Deposit Material, Iron Mountain shall rely on instructions from a Party's Authorized Person. In all other cases, Iron Mountain may act in reliance upon any instruction, instrument, or signature reasonably believed by Iron Mountain to be genuine and from an Authorized Person, officer, or other employee of a Party. Iron Mountain may assume that such representative of a Party to this Agreement who gives any written notice, request, or instruction has the authority to do so. Iron Mountain will not be required to inquire into the truth of, or evaluate the merit of, any statement or representation contained in any notice or document reasonably believed to be from such representative.
- (f) **Force Majeure.** No Party shall be liable for any delay or failure in performance due to events outside the defaulting Party's reasonable control, including without limitation acts of God, strikes, riots, war, acts of terrorism, fire, epidemics, or delays of common carriers or other circumstances beyond its reasonable control. The obligations and rights of the excused Party shall be extended on a day-to-day basis for the time period equal to the period of the excusable delay.
- (g) **Notices.** Iron Mountain shall have the right to rely on the last known address provided by each the Depositor and Beneficiary for its respective Authorized Person and Billing Contact as set forth in this Agreement or as subsequently provided as an update to such address. All notices regarding Exhibit C (Release of Deposit Material) shall be sent by commercial express mail or other commercially appropriate means that provide prompt delivery and require proof of delivery. All other correspondence, including but not limited to invoices and payments, may be sent electronically or by regular mail. The Parties shall have the right to rely on the last known address of the other Parties. Any correctly addressed notice to the last known address of the other Parties, that is refused, unclaimed, or undeliverable shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by electronic mail, the postal authorities, or commercial express mail.
- (h) **No Waiver.** No waiver of any right under this Agreement by any Party shall constitute a subsequent waiver of that or any other right under this Agreement.
- (i) **Assignment.** No assignment of this Agreement by Depositor or Beneficiary or any rights or obligations of Depositor or Beneficiary under this Agreement is permitted without the written consent of Iron Mountain, which shall not be unreasonably withheld or delayed. Iron Mountain shall have no obligation in performing this Agreement to recognize any successor or assign of Depositor or Beneficiary unless Iron Mountain receives clear, authoritative and conclusive written evidence of the change of Parties.
- (j) **Severability.** In the event any of the terms of this Agreement become or are declared to be illegal or otherwise unenforceable by any court of competent jurisdiction, such term(s) shall be null and void and shall be deemed deleted from this Agreement. All remaining terms of this Agreement shall remain in full force and effect.
- (k) **Independent Contractor Relationship.** Depositor and Beneficiary understand, acknowledge, and agree that Iron Mountain's relationship with Depositor and Beneficiary will be that of an independent contractor and that nothing in this Agreement is intended to or should be construed to create a partnership, joint venture, or employment relationship.

- (l) **Attorneys' Fees.** Any costs and fees incurred by Iron Mountain in the performance of obligations imposed upon Iron Mountain solely by virtue of its role as escrow service provider including, without limitation, compliance with subpoenas, court orders, discovery requests, and disputes arising solely between Depositor and Beneficiary, including, but not limited to, disputes concerning a release of the Deposit Material shall, unless adjudged otherwise, be divided equally and paid by Depositor and Beneficiary.
- (m) **No Agency.** No Party has the right or authority to, and shall not, assume or create any obligation of any nature whatsoever on behalf of the other Parties or bind the other Parties in any respect whatsoever.
- (n) **Disputes.** Any dispute, difference or question arising among any of the Parties concerning the construction, meaning, effect or implementation of this Agreement or the rights or obligations of any Party will be submitted to, and settled by arbitration by a single arbitrator chosen by the corresponding Regional Office of the American Arbitration Association in accordance with the Commercial Rules of the American Arbitration Association. The Parties shall submit briefs of no more than 10 pages and the arbitration hearing shall be limited to two (2) days maximum. Arbitration will take place in Boston, Massachusetts, USA. Any court having jurisdiction over the matter may enter judgment on the award of the arbitrator. Service of a petition to confirm the arbitration award may be made by regular mail or by commercial express mail, to the attorney for the Party or, if unrepresented, to the Party at the last known business address.
- (o) **Interpleader.** Anything to the contrary notwithstanding, in the event of any dispute regarding the interpretation of this Agreement, or the rights and obligations with respect to the Deposit Material in escrow or the propriety of any action contemplated by Iron Mountain hereunder, then Iron Mountain may, in its sole discretion, file an interpleader or similar action in any court of competent jurisdiction to resolve any such dispute.
- (p) **Regulations.** Depositor and Beneficiary are responsible for and warrant, to the extent of their individual actions or omissions, compliance with all applicable laws, rules and regulations, including but not limited to: customs laws; import; export and re-export laws; and government regulations of any country from or to which the Deposit Material may be delivered in accordance with the provisions of this Agreement. Depositor represents and warrants that the establishment of a deposit account containing ITAR regulated Deposit Material for the Beneficiary, and Iron Mountain's subsequent release of such Deposit Material under the terms of this Agreement will be lawful under any applicable U.S. export control regulations and laws, including ITAR. Conversely, Depositor shall refrain from establishing a deposit account containing ITAR regulated Deposit Material for the Beneficiary if the release of such Deposit Material to the Beneficiary, under the terms of this Agreement, would be in violation of any applicable U.S export control regulations and laws, including ITAR. With respect to Deposit Material containing personal information and data, Depositor agrees to (i) procure all necessary consents in relation to personal information and data; and (ii) otherwise comply with all applicable privacy and data protection laws as they relate to the subject matter of this Agreement. Iron Mountain is responsible for and warrants, to the extent of their individual actions or omissions, compliance with all applicable laws, rules and regulations to the extent that it is directly regulated by the law, rule or regulation and to the extent that it knows or has been advised that, as a result of this Agreement, its activities are subject to the law, rule or regulation. Notwithstanding anything in this Agreement to the contrary, if an applicable law or regulation exists or should be enacted which is contrary to the obligations imposed upon Iron Mountain hereunder, and results in the activities contemplated hereunder unlawful, Depositor and/or Beneficiary will notify Iron Mountain and Iron Mountain will be relieved of its obligations hereunder unless and until such time as such activity is permitted.
- (q) **No Third Party Rights.** This Agreement is made solely for the benefit of the Parties to this Agreement and their respective permitted successors and assigns, and no other person or entity shall have or acquire any right by virtue of this Agreement unless otherwise agreed to by all of the Parties.
- (r) **Entire Agreement.** The Parties agree that this Agreement, which includes all attached Exhibits and all valid Work Requests and SOWs submitted by the Parties, is the complete agreement between the Parties concerning the subject matter of this Agreement and replaces any prior or contemporaneous oral or written communications between the Parties. There are no conditions, understandings, agreements, representations, or warranties, expressed or implied, which are not specified in this Agreement. Each of the Parties warrant that the execution, delivery, and performance of this Agreement has been duly authorized and signed by a person who meets statutory or other binding approval to sign on behalf of its organization as named in this Agreement. This Agreement may be modified only by mutual written agreement of all the Parties.
- (s) **Counterparts.** This Agreement may be executed electronically in accordance with applicable law or in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.
- (t) **Survival.** Sections 7 (Term and Termination), 8 (Infringement Indemnification), 9 (Warranties), 10 (Confidential Information), 11 (Limitation of Liability), 12 (Consequential Damages Waiver), and 13 (General) of this Agreement shall survive termination of this Agreement or any Exhibit attached to this Agreement.


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IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the Effective Date by their authorized representatives:

DEPOSITOR		BENEFICIARY	
Signature		Signature	
Print Name	Brian J. Erdahl	Print Name	Jennifer Lee, MD
Title	Principal	Title	Director
Date	1/25/18	Date	3-5-2018

IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.	
Signature	
Print Name	Mary K. English
Title	VP
Date	March 19, 2018 04:47 PDT

Approved as to IPM Operational Content:
Iron Mountain Operations



Name: John Styslinger, Contracts Specialist
Date: March 15, 2018

(BALANCE OF THIS PAGE LEFT INTENTIONALLY BLANK -- NOTICES TABLES AND EXHIBITS FOLLOW)

Authorized Person Notices Table

Please provide the names and contact information of the Authorized Persons under this Agreement. Please complete all information as applicable. Incomplete information may result in a delay of processing.

DEPOSITOR (Required information)		BENEFICIARY (Required information)	
Print Name	Brian J. Erdahl	Print Name	Mukundan Srinivasan
Title	Principal	Title	DMAS IM Director
Email Address	berdahl@deloitte.com	Email Address	Mukundan.Srinivasan@dmass.virginia.gov
Street Address	2500 One PPG Place	Street Address	600 East Broad Street, Suite 1300
City	Pittsburgh	City	Richmond
State/Province	PA	State/Province	VA
Postal/Zip Code	15222	Postal/Zip Code	23219
Country	USA	Country	USA
Phone Number	412 402 5388	Phone Number	804-371-6369
Fax Number	412 402 5623	Fax Number	804-371-4981

**Paying Party Billing Contact Information Table
(Required information)**

Please provide the name and contact information of the Billing Contact for the Paying Party under this Agreement. All Invoices will be sent to this individual at the address set forth below. Incomplete information may result in a delay of processing.

Company Name	Deloitte Consulting
Print Name	Tracy Baker
Title	Manager Project Controller
Email Address	trbaker@deloitte.com
Street Address	100 S. Charles St.
City	Baltimore
State/Province	MD
Postal/Zip Code	21201
Country	USA
Phone Number	717-695-5404
Fax Number	NA
Purchase Order #	

IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.

All notices should be sent to ipmclientservices@ironmountain.com OR Iron Mountain Intellectual Property Management, Inc., Attn: Client Services, 2100 Norcross Parkway, Suite 150, Norcross, Georgia, 30071, USA. Telephone: 800-875-5669. Facsimile: 770-239-9201

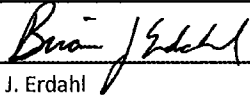
Exhibit A

Escrow Services Fee Schedule – Work Request

Deposit Account Number 51440

Service	Service Description - Three-Party Escrow Service Agreement All services are listed below. Check the requested service and submit a Work Request to Iron Mountain for services requested after agreement signature.	One-Time/Per Service Fees	Annual Fees
<input checked="" type="checkbox"/> Setup Fee (Required at Setup)	One-time Setup Fee for Iron Mountain to setup a standard Three-Party Escrow Service Agreement.	\$2,575	
<input checked="" type="checkbox"/> Deposit Account Fee (Required at Setup)	Iron Mountain will set up one deposit account to manage and administrate access to Deposit Material to be secured in a controlled storage environment. Iron Mountain will provide account services that include unlimited deposits, electronic vaulting, access to Iron Mountain Connect™ Escrow Management Center for secure online account management, submission of electronic Work Requests, and communication of status. Release of deposit material is also included in the annual fee. An oversize fee of \$200 USD per 1.2 cubic foot will be charged for deposits that exceed 2.4 cubic feet.		\$1,150
<input checked="" type="checkbox"/> Beneficiary Fee (Required at Setup)	Iron Mountain will fulfill a Work Request to add a Beneficiary to an escrow deposit account and manage account access rights. Beneficiary will have access to Iron Mountain Connect™ Escrow Management Center for secure online account management, submission of electronic Work Requests, and communication of status.		\$850
<input type="checkbox"/> File List Test	Iron Mountain will perform one (1) File List Test, which includes a Deposit Material media readability analysis, a file listing, a file classification table, virus scan outputs, and confirmation of the presence or absence of a completed escrow deposit questionnaire. A final report will be sent to the requesting Party regarding the Deposit Material. Deposit must be provided on CD, DVD-R, or deposited electronically.	\$2,750	N/A
<input checked="" type="checkbox"/> Level 1 Inventory and Analysis Test	Iron Mountain will perform one (1) Inventory and Analysis Test on the specified deposit, which includes the outputs of the File List Test, identifying the presence/absence of build, setup and design documentation (including the presence or absence of a completed escrow deposit questionnaire), and identifying materials required to recreate the Depositor's application development and production environments. Output includes a report that includes compile and setup documentation, file classification tables and file listings. The report will list required software development materials, including, without limitation, required source code languages and compilers, third-party software, libraries, operating systems, and hardware, and Iron Mountain's analysis of the deposit. A final report will be sent to the requesting Party regarding the Deposit Material.	\$5,250 or based on SOW if custom work required	N/A
<input type="checkbox"/> Dual Vaulting	Iron Mountain will store and manage a redundant copy of the Deposit Material in one (1) additional location. All Deposit Material (original and copy) must be provided by the Depositor.	N/A	\$750
<input type="checkbox"/> Remote Vaulting	Iron Mountain will store and manage the Deposit Material in a remote location, designated by the client, outside of Iron Mountain's primary escrow vaulting location. All Deposit Material (original and copy) must be provided by the Depositor.	N/A	\$750
<input checked="" type="checkbox"/> Custom Contract Fee	Custom contracts are subject to the Custom Contract Fee, which covers the review and processing of custom or modified contracts.	\$750	N/A
Additional Verification Services (Fees based on Statement of Work)			
Level 2 Deposit Compile Test	Iron Mountain will fulfill a Statement of Work (SOW) to perform a Deposit Compile Test, which includes the outputs of the Level 1 - Inventory and Analysis Test, plus recreating the Depositor's software development environment, compiling source files and modules, linking libraries and recreating executable code, providing a pass/fail determination, and creation of comprehensive compilation documentation with a final report sent to the Paying Party regarding the Deposit Material. The requesting Party and Iron Mountain will agree on a custom SOW prior to the start of fulfillment. A completed escrow deposit questionnaire is required for execution of this test.		
Level 3 Binary Comparison Test	Iron Mountain will fulfill a Statement of Work (SOW) to perform one Binary Comparison Test - Binary Comparison, which includes the outputs of the Level 2 test, a comparison of the executable files built from the Deposit Compile Test to the actual executable files in use by the Beneficiary to ensure a full binary-level match, with a final report sent to the Requesting Party regarding the Deposit Material. The Paying Party and Iron Mountain will agree on a custom SOW prior to the start of fulfillment. A completed escrow deposit questionnaire is required for execution of this test.		
Level 4 Full Usability Test	Iron Mountain will fulfill a Statement of Work (SOW) to perform one Deposit Usability Test - Full Usability, which includes the outputs of the Level 1 and Level 2 tests (if applicable). Iron Mountain will confirm that the deposited application can be setup, installed and configured and, when installed, will execute functional tests, based on pre-determined test scripts provided by the Parties, and create comprehensive setup and installation documentation. A final report will be sent to the Paying Party regarding the Deposit Material. The Paying Party and Iron Mountain will agree on a custom SOW prior to the start of fulfillment. A completed escrow deposit questionnaire is required for execution of this test.		

Pursuant to the Agreement, the undersigned hereby issues this Work Request for performance of the Service(s) selected above.

Paying Party – For Future Work Request Use Only	
Paying Party Name	Deloitte Consulting
Signature	
Print Name	Brian J. Erdahl
Title	Principal
Date	1/25/2018

IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.

All Work Requests should be sent to ipmclientservices@ironmountain.com OR Iron Mountain Intellectual Property Management, Inc., Attn: Client Services, 2100 Norcross Parkway, Suite 150, Norcross, Georgia, 30071, USA. Telephone: 800-875-5669. Facsimile: 770-239-9201

Exhibit B**Deposit Material Description**

(This document must accompany each submission of Deposit Material)

Company Name	Deloitte Consulting	Deposit Account Number	51440
Deposit Name	VA DMAS ISS Escrow	Deposit Version	

(Deposit Name will appear in account history reports)

Deposit Media

(Please Label All Media with the Deposit Name Provided Above)

Media Type	Quantity	Media Type	Quantity
<input type="checkbox"/> CD-ROM / DVD		<input type="checkbox"/> USB Drive	
<input type="checkbox"/> DLT Tape		<input type="checkbox"/> Documentation	
<input type="checkbox"/> DAT Tape(4mm/8mm)		<input type="checkbox"/> Hard Drive / CPU	
<input type="checkbox"/> LTO Tape		<input type="checkbox"/> Circuit Board	
<input type="checkbox"/> Other (please describe):			

	Total Size of Transmission (specify in bytes)	# of Files	# of Folders
<input type="checkbox"/> Electronic Deposit			

Deposit Encryption

(Please check either "Yes" or "No" below and complete as appropriate)

Is the media or are any of the files encrypted? Yes or No

If yes, please include any passwords and decryption tools description below. Please also deposit all necessary encryption software with this deposit. Depositor at its option may submit passwords on a separate Exhibit B.

Encryption tool name		Version	
Hardware required			
Software required			
Other required information			

Deposit Certification (Please check the box below to certify and provide your contact information)

<input type="checkbox"/> I certify for Depositor that the above described Deposit Material has been transmitted electronically or sent via commercial express mail carrier to Iron Mountain at the address below.		<input type="checkbox"/> Iron Mountain has inspected and accepted the above described Deposit Material either electronically or physically. Iron Mountain will notify Depositor of any discrepancies.	
Print Name		Name	
Date		Date	
Email Address			
Telephone Number			

Note: If Depositor is physically sending Deposit Material to Iron Mountain, please label all media and mail all Deposit Material with the appropriate Exhibit B via commercial express carrier to the following address:

Iron Mountain Intellectual Property Management, Inc.
 Attn: Vault Administration
 2100 Norcross Parkway, Suite 150
 Norcross, GA 30071
 Telephone: 800-875-5669
 Facsimile: 770-239-9201

Exhibit C

Release of Deposit Material

Deposit Account Number	51440
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Iron Mountain will use the following procedures to process any Beneficiary Work Request to release Deposit Material. All notices under this Exhibit C shall be sent pursuant to the terms of Section 13(g) Notices.

1. Release Conditions.

Depositor and Beneficiary agree that a Work Request for the release of the Deposit Material shall be based solely on one or more of the following conditions (defined as “**Release Conditions**”):

- (i) Depositor’s breach of the License Agreement or other agreement between the Depositor and Beneficiary regulating the use of the Deposit Material covered under this Agreement; or
- (ii) Failure of the Depositor to function as a going concern or operate in the ordinary course; or
- (iii) Depositor is subject to voluntary or involuntary bankruptcy; or
- (iv) Depositor’s failure to carry out its support and maintenance obligations imposed by the License Agreement for a period of sixty (60) days and the failure to cure such breach within the applicable cure period set forth in the Services Contract,

2. Release Work Request.

A Beneficiary may submit a Work Request to Iron Mountain to release the Deposit Material covered under this Agreement. To the extent that the Deposit Material is subject to applicable U.S. export control regulations and laws, including ITAR, the Beneficiary Work Request to release the Deposit Material must include Beneficiary’s certification that such release would be compliant with the applicable U.S. export control regulations and laws, including ITAR. Iron Mountain will send a written notice of this Beneficiary Work Request within five (5) business days to the Depositor’s Authorized Person.

3. Contrary Instructions.

From the date Iron Mountain mails written notice of the Beneficiary Work Request to release Deposit Material covered under this Agreement, Depositor’s Authorized Person shall have ten (10) business days to deliver to Iron Mountain contrary instructions. Contrary instructions shall mean the written representation by Depositor that a Release Condition has not occurred or has been cured (“**Contrary Instructions**”). Contrary Instructions shall be on company letterhead and signed by a Depositor Authorized Person. Upon receipt of Contrary Instructions, Iron Mountain shall promptly send a copy to Beneficiary’s Authorized Person. Additionally, Iron Mountain shall notify both Depositor and Beneficiary Authorized Persons that there is a dispute to be resolved pursuant to the Disputes provisions of this Agreement. Iron Mountain will continue to store Deposit Material without release pending (i) instructions from Depositor to release the Deposit Material to Beneficiary; or (ii) dispute resolution pursuant to the Disputes provisions of this Agreement; or (iii) withdrawal of Contrary Instructions from Depositor’s Authorized Person or legal representative; or (iv) receipt of an order from a court of competent jurisdiction. The existence of a Release Condition dispute shall not relieve the Paying Party from payment of applicable Service Fees.

4. Release of Deposit Material.

If Iron Mountain does not receive timely Contrary Instructions from a Depositor Authorized Person or receives written instructions directly from Depositor’s Authorized Person to release a copy of the Deposit Material to the Beneficiary, Iron Mountain is authorized to release Deposit Material to the Beneficiary. Iron Mountain is entitled to receive any undisputed, unpaid Service Fees due Iron Mountain from the Parties before fulfilling the Work Request to release Deposit Material covered under this Agreement. Any Party may cure a default of payment of Service Fees.

5. Termination of Agreement Upon Release.

This Agreement will terminate upon the release of Deposit Material held by Iron Mountain.

6. Right to Use Following Release.

Beneficiary has the right under this Agreement to use the Deposit Material for the sole purpose of continuing the benefits afforded to Beneficiary by the License Agreement. Notwithstanding, the Beneficiary shall not have access to the Deposit Material unless there is a release of the Deposit Material in accordance with this Agreement. Beneficiary shall be obligated to maintain the confidentiality of the released Deposit Material.

EXHIBIT D – END USER LICENSING AGREEMENT (For Reference Only)

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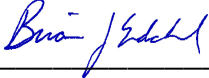
EXHIBIT E – CERTIFICATION REGARDING LOBBYING

EXHIBIT E: CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- i). No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee or an 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.
- ii). 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 Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- iii). The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and Contracts under grants, loans and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature: 

Printed Name: Brian J. Erdahl

Organization: Deloitte Consulting LLP

Date: 01/30/2018

EXHIBIT F – DMAS BUSINESS ASSOCIATE AGREEMENT (BAA)



COMMONWEALTH of VIRGINIA
Department of Medical Assistance Services

JENNIFER S. LEE, M.D.
DIRECTOR

SUITE 1300
600 EAST BROAD ST
RICHMOND, VA 23219

BUSINESS ASSOCIATE AGREEMENT (BAA) to Contract # 10044
PRIVACY AND SECURITY OF PROTECTED HEALTH INFORMATION

General Conditions

This BAA (“Agreement” or “BAA”) is made as of March 7, 2018 by the Department of Medical Assistance Services (“Covered Entity”), with offices at 600 East Broad Street, Richmond, Virginia, 23219, and Deloitte Consulting LLP (“Business Associate”), with an office at 901 E. Byrd Street, Suite 820 West Tower, Richmond, VA 23219. This is a non-exclusive agreement between the Covered Entity, which administers Medical Assistance, and the Business Associate named above.

The Covered Entity and Business Associate, as defined in 45 CFR 160.103, have entered into this Business Associate Agreement to comply with all applicable provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), P.L. 104-191, as amended, the current and future Privacy and Security requirements for such an Agreement, the Health Information Technology for Economic and Clinical Health (HITECH) Act, (P.L. 111-5) Section 13402, requirements for business associates regarding breach notification, as well as our duty to protect the confidentiality and integrity of Protected Health Information (PHI) required by law, Department policy, professional ethics, and accreditation requirements.

DMAS and Business Associate (“parties”) shall fully comply with all current and future provisions of the Privacy and Security Rules and regulations implementing HIPAA and HITECH, as well as Medicaid requirements regarding Safeguarding Information on Applicants and Recipients of 42 CFR 431, Subpart F, and Virginia Code § 32.1-325.3. The parties desire to facilitate the provision of or transfer of electronic PHI in agreed formats and to assure that such transactions comply with relevant laws and regulations. The parties intending to be legally bound agree as follows:

- I. Definitions. As used in this agreement, the terms below will have the following meanings:
- a. Business Associate has the meaning given such term as defined in 45 CFR 160.103.
 - b. Covered Entity has the meaning given such term as defined in 45 CFR 160.103.
 - c. Provider: Any entity eligible to be enrolled and receive reimbursement through Covered Entity for any Medicaid-covered services.
 - d. MMIS: The Medicaid Management Information System, the computer system that is used to maintain recipient (*member*), provider, and claims data for administration of the Medicaid program.
 - e. Protected Health Information (PHI) has the meaning of individually identifiable health information as those terms are defined in 45 CFR 160.103.
 - f. Breach has the meaning as that term is defined at 45 CFR 164.402.
 - g. Required by law shall have the meaning as that term is defined at 45 CFR 160.103.
 - h. Unsecured Protected Health Information has the meaning as that term is defined at

45 CFR 164.402.

- i. Transport Layer Security (TLS): A protocol (standard) that ensures privacy between communicating applications and their users on the Internet. When a server and client communicate, TLS ensures that no third party may eavesdrop or tamper with any message. TLS is the successor to the Secure Sockets Layer (SSL).

Terms used, but not otherwise defined, in this Agreement shall have the same meaning given those terms under HIPAA, the HITECH Act, and other applicable federal law.

II. Notices

1. Written notices regarding impermissible use or disclosure of unsecured protected health information by the Business Associate shall be sent via email or general mail to the DMAS Privacy Officer (with a copy to the DMAS contract administrator in II.2) at:

DMAS Privacy Officer, Office of Compliance and Security
Department of Medical Assistance Services
600 East Broad Street
Richmond, Virginia 23219
hipaaprivacy@dmass.virginia.gov

2. Other written notices to the Covered Entity should be sent via email or general mail to DMAS contract administrator at:

Contact: Mukundan Srinivasan
Department of Medical Assistance Services
600 East Broad Street
Richmond, Virginia 23219

III. Special Provisions to General Conditions

1. Uses and Disclosure of PHI by Business Associate. The Business Associate
 - a. May use or disclose PHI received from the Covered Entity, if necessary, to carry out its legal responsibilities and for the proper management and administration of its business.
 - b. Shall not use PHI otherwise than as expressly permitted by this Agreement, or as required by law.
 - c. Shall have a signed confidentiality agreement with all individuals of its workforce who have access to PHI.
 - d. Shall not disclose PHI to any member of its workforce except to those persons who have authorized access to the information, and who have signed a confidentiality agreement.
 - e. Shall ensure that any agents and subcontractors to whom it provides PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, agree in writing to all the same restrictions, terms, special provisions and general conditions in this BAA that apply to Business Associate. In addition, Business Associate shall ensure that any such subcontractor or agent agrees to implement reasonable and appropriate safeguards to protect Covered Entity's PHI. In instances where one DMAS Business Associate is required to access DMAS PHI from another DMAS Business Associate, the first DMAS Business Associate shall enter into a business associate agreement with the second DMAS Business Associate.
 - f. Shall provide Covered Entity access to its facilities used for the maintenance and processing of PHI, for inspection of its internal practices, books, records, and policies and procedures relating to the use and disclosure of PHI, for purpose of determining Business Associate's compliance with this BAA.
 - g. Shall make its internal practices, books, records, and policies and procedures relating to the use and disclosure of PHI received from Covered Entity, or created or received by Business

Associate on behalf of Covered Entity, available to the Secretary of Department of Health and Human Services (DHHS) or its designee and provide Covered Entity with copies of any information it has made available to DHHS under this section of this BAA.

- h. Shall not directly or indirectly receive remuneration in exchange for the provision of any of Covered Entity's PHI, except with the Covered Entity's consent and in accordance with 45 CFR 164.502.
- i. Shall make reasonable efforts in the performance of its duties on behalf of Covered Entity to use, disclose, and request only the minimum necessary PHI reasonably necessary to accomplish the intended purpose with the terms of this Agreement.
- j. Shall comply with 45 CFR 164.520 regarding Notice of privacy practices for protected health information.

2. Safeguards - Business Associate shall

- a. Implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI that it creates, receives, maintains or transmits on behalf of Covered Entity as required by the HIPAA Security Rule, 45 CFR Parts 160, 162, and 164 and the HITECH Act.
- b. Include a description of such safeguards in the form of a Business Associate Data Security Plan.
- c. In accordance with the HIPAA Privacy Rule, the Security Rule, and the guidelines issued by the National Institute for Standards and Technology (NIST), Business Associate shall use commercially reasonable efforts to secure Covered Entity's PHI through technology safeguards that render PHI unusable, unreadable and indecipherable to individuals unauthorized to access such PHI.
- d. Business Associate shall not transmit PHI over the Internet or any other insecure or open communication channel, unless such information is encrypted or otherwise safeguarded using procedures no less stringent than described in 45 CFR 164.312(e).
- e. Business Associate shall cooperate and work with Covered Entity's contract administrator to establish TLS-connectivity to ensure an automated method of the secure exchange of email.

3. Accounting of Disclosures - Business Associate shall

- a. Maintain an ongoing log of the details relating to any disclosures of PHI outside the scope of this Agreement that it makes. The information logged shall include, but is not limited to;
 - i. the date made,
 - ii. the name of the person or organization receiving the PHI,
 - iii. the recipient's (member) address, if known,
 - iv. a description of the PHI disclosed, and the reason for the disclosure.
- b. Provide this information to the Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.

4. Sanctions - Business Associate shall

- a. Implement and maintain sanctions for any employee, subcontractor, or agent who violates the requirements in this Agreement or the HIPAA privacy regulations.
- b. As requested by Covered Entity, take steps to mitigate any harmful effect of any such violation of this agreement.

5. Business Associate also agrees to all of the following:

- a. In the event of any impermissible use or disclosure of PHI or breach of unsecured PHI made in violation of this Agreement or any other applicable law, the Business Associate shall notify the DMAS Privacy Officer
 - i. On the first day on which such breach is known or reasonably should be known by Business Associate or an employee, officer or agent of Business Associate other than the person committing the breach, and

- ii. Written notification to DMAS Privacy Officer shall include the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Contractor to have been, accessed, acquired, used or disclosed during the breach. Business Associate shall confer with DMAS prior to providing any notifications to the public or to the Secretary of HHS.
- b. Breach Notification requirements.
 - i. In addition to requirements in 5.a above, in the event of a breach or other impermissible use or disclosure by Business Associate of PHI or unsecured PHI, the Business Associate shall be required to notify in writing all affected individuals to include,
 - a) a brief description of what happened, including the date of the breach and the date the Business Associate discovered the breach;
 - b) a description of the types of unsecured PHI that were involved in the breach;
 - c) any steps the individuals should take to protect themselves from potential harm resulting from the breach;
 - d) a brief description of what Business Associate is doing to investigate the breach, mitigate harm to individuals, and protect against any future breaches, and, if necessary,
 - e) Establishing and staffing a toll-free telephone line to respond to questions.
 - ii. Business Associate shall be responsible for all costs associated with breach notifications requirements in 5b, above.
 - iii. Written notices to all individuals and entities shall comply with 45 CFR 164.404(c)(2), 164.404(d)(1), 164.406, 164.408 and 164.412.

6. Amendment and Access to PHI - Business Associate shall

- a. Make an individual's PHI available to Covered Entity within ten (10) days of an individual's request for such information as notified by Covered Entity.
- b. Make PHI available for amendment and correction and shall incorporate any amendments or corrections to PHI within ten (10) days of notification by Covered Entity per 45 CFR 164.526.
- c. Provide access to PHI contained in a designated record set to the Covered Entity, in the time and manner designated by the Covered Entity, or at the request of the Covered Entity, to an individual in order to meet the requirements of 45 CFR 164.524.

7. Termination

- a. Covered Entity may immediately terminate this agreement if Covered Entity determines that Business Associate has violated a material term of the Agreement.
- b. This Agreement shall remain in effect unless terminated for cause by Covered Entity with immediate effect, or until terminated by either party with not less than thirty (30) days prior written notice to the other party, which notice shall specify the effective date of the termination; provided, however, that any termination shall not affect the respective obligations or rights of the parties arising under any Documents or otherwise under this Agreement before the effective date of termination.
- c. Within thirty (30) days of expiration or earlier termination of this agreement, Business Associate shall return or destroy all PHI received from Covered Entity (or created or received by Business Associate on behalf of Covered Entity) that Business Associate still maintains in any form and retain no copies of such PHI.
- d. Business Associate shall provide a written certification that all such PHI has been returned or destroyed, whichever is deemed appropriate by the Covered Entity. If such return or destruction is infeasible, Business Associate shall use such PHI only for purposes that make such return or destruction infeasible and the provisions of this agreement shall survive with respect to such PHI.

8. Amendment

- a. Upon the enactment of any law or regulation affecting the use or disclosure of PHI, or the publication of any decision of a court of the United States or of this state relating to any such law, or the publication of any interpretive policy or opinion of any governmental agency charged with the enforcement of any such law or regulation, Covered Entity may, by written notice to the Business Associate, amend this Agreement in such manner as Covered Entity determines necessary to comply with such law or regulation.
- b. If Business Associate disagrees with any such amendment, it shall so notify Covered Entity in writing within thirty (30) days of Covered Entity's notice. If the parties are unable to agree on an amendment within thirty (30) days thereafter, either of them may terminate this Agreement by written notice to the other.

9. Indemnification. Business Associate shall indemnify and hold Covered Entity harmless from and against all claims, liabilities, judgments, fines, assessments, penalties, awards, or other expenses, of any kind or nature whatsoever, including, without limitation, attorney's fees, expert witness fees, and costs of investigation, litigation or dispute resolution, relating to or arising out of any breach or alleged breach of this Agreement by Business Associate.

10. This Agreement shall have a document, attached hereto and made a part hereof, containing the following:

- a. The names and contact information for at least one primary contact individual from each party to this Agreement.
- b. A complete list of all individuals, whether employees or direct contractors of Business Associate, who shall be authorized to access Covered Entity's PHI
- c. A list of the specific data elements required by Business Associate in order to carry out the purposes of this Agreement.
- d. The purposes for which such data is required.
- e. A description of how Business Associate intends to use, access or disclose such data in order to carry out the purposes of this Agreement.

Business Associate agrees to update the above noted information as needed in order to keep the information current. Covered Entity may request to review the above-referenced information at any time, including for audit purposes, during the term of this Agreement.

11. Disclaimer. COVERED ENTITY MAKES NO WARRANTY OR REPRESENTATION THAT COMPLIANCE BY BUSINESS ASSOCIATE WITH THIS AGREEMENT OR THE HIPAA REGULATIONS WILL BE ADEQUATE OR SATISFACTORY FOR BUSINESS ASSOCIATE'S OWN PURPOSES OR THAT ANY INFORMATION IN BUSINESS ASSOCIATE'S POSSESSION OR CONTROL, OR TRANSMITTED OR RECEIVED BY BUSINESS ASSOCIATE, IS OR WILL BE SECURE FROM UNAUTHORIZED USE OR DISCLOSURE, NOR SHALL COVERED ENTITY BE LIABLE TO BUSINESS ASSOCIATE FOR ANY CLAIM, LOSS OR DAMAGE RELATED TO THE UNAUTHORIZED USE OR DISCLOSURE OF ANY INFORMATION RECEIVED BY BUSINESS ASSOCIATE FROM COVERED ENTITY OR FROM ANY OTHER SOURCE. BUSINESS ASSOCIATE IS SOLELY RESPONSIBLE FOR ALL DECISIONS MADE BY BUSINESS ASSOCIATE REGARDING THE SAFEGUARDING OF PHI.

#####

End of Document

ATTACHMENT A

(To be completed by Business Associate)

DMAS/ Deloitte Consulting LLP
Master BAA Agreement Contract 10044

Reference Section III Special Provisions to General Conditions

10. This Agreement shall have a document, attached hereto and made a part hereof, containing the following:

- a. The names and contact information for at least one primary contact individual from each party to this Agreement.

Contact: Mukundan Srinivasan
Department of Medical Assistance Services
600 East Broad Street
Richmond, Virginia 23219
(804) 371-6369
Mukundan.Srinivasan@dmas.virginia.gov

Contact:

Name: Brian J. Erdahl
Address: 901 E. Byrd Street, Suite 820 West Tower, Richmond, VA 23219
Phone Number: 724-991-3247
Email Address: berdahl@deloitte.com

- b. Complete list of all individuals, whether employees or direct contactors, of Business Associate who shall be authorized to access Covered Entity's PHI.

Rajesh Sharma (Testing)
Art Gallow

- c. List of the specific data elements required by Business Associate in order to carry out the purpose of this Agreement.

Transaction logs of any messages transmitting provider, member and claims data. In cases where messages need to be debugged or analyzed for issues arising.

- d. Purposes for which such data is required.

The data is required to fulfill the scope of work requirements of Contract 10044.

- e. Description of how Business Associate intends to use, access or disclose such data in order to carry out the purposes of this Agreement.

A description of how Business Associate (BA) intends to use, access or disclose data is defined in the contract 10044 documents.

**EXHIBIT G - CLOUD SERVICES
ADDITIONAL CONTRACT TERMS AND CONDITIONS
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EXHIBIT G - CLOUD SERVICES ADDITIONAL CONTRACT TERMS AND CONDITIONS

These additional terms and conditions for provision of Cloud Services as part of Supplier's contractual obligations for an overall solution provided by the Supplier are in support of and incorporated herewith under Contract No. 10044 (the "Contract"). This Exhibit ("Exhibit") sets forth additional terms and conditions under which Supplier shall provide such Cloud Services ("Cloud Services") to Department of Medical Assistance Services (DMAS). All capitalized terms used but not defined herein shall have the meaning set forth in the Contract.

The parties acknowledge that there may be provisions in this Exhibit G that are duplicative of provisions in the main Contract: Such duplication into this document is purely for informational purposes only and not intended to create or imply that there will be a separate or different set of terms/processes to be followed for the Cloud Services.

1. ADDITIONAL DEFINITIONS

A. Acceptance

Successful delivery of a Component, unit of the Solution, or the Solution, as applicable, which shall be defined as meeting the applicable Requirements at the location(s) designated in the Contract, as verified by completed and successful Acceptance testing demonstrating conformance with the applicable Requirements, in accordance with Section 10 of the Contract.

B. Application

The software programs in object code and Documentation, which may include Supplier Product and third party products, made available to DMAS as part of the Solution, including any Updates, enhancements, and replacements to the Application. For clarity, Custom Software (as defined in the Contract) does not include the Application(s).

C. Solution Users

Solution Users shall consist of employees of DMAS, the Commonwealth of Virginia and its Agencies, independent or other contractors engaged by DMAS, or entities contracting with DMAS for services, as well as DMAS customers, suppliers, members of the general public, and other entities with whom DMAS may find it necessary or desirable to process or communicate electronically in pursuit of its business.

D. Content

Any data, including the selection, arrangement and organization of such data, entered, uploaded to the Application, or otherwise provided to Supplier by DMAS or by any Solution User for use in the Solution.

E. Cloud Services

The operation and management (including any maintenance and support) of the Solution related to necessary operating system software, hardware and utilities on Supplier's or its vendor's host computer system, storing Content and making the Solution and Content available to Solution User(s) via the Web Site, as more fully described in Exhibit A.

F. Supplier Technology

Supplier's proprietary software programs, reports, information and data made available to DMAS and its Solution Users as part of the Cloud Services. Also includes, works of authorship, materials, information and other intellectual property created by Supplier or its subcontractors prior to or independently of the performance of the Services, and modifications or derivative works thereof, subject to CMS reuse requirements.

G. Update

As applicable, any update, modification or new release of the Cloud Services, Application, Component, or Documentation that Supplier or its licensors makes generally available to its customers at no additional cost. Software Updates include patches, fixes, upgrades, enhancements, improvements, or access mode, including without limitation additional capabilities to or otherwise improve the functionality, increase the speed, efficiency, or base operation of the applicable software.

H. VITA

Virginia Information Technologies Agency.

I. Web Site

The web site through which Solution Users access the Solution.

2. SCALABILITY OF CLOUD SERVICES

DMAS may make a written request to increase or decrease the volume (e.g., size and processing capacity of the Cloud Services (“revised usage”) under a change order to the Contract.

3. DESCRIPTION OF CLOUD SERVICES

During the term of this Contract in accordance with the Work Plan, Supplier hereby agrees to host the Solution on servers owned, operated, housed, and maintained by Supplier (or its vendors and/or subcontractors) and shall make the Solution available to DMAS designated Solution Users through the Web Site and via specific URLs. Supplier has acquired any and all license rights in the Application(s) necessary and appropriate for Supplier to provide the Cloud Services in accordance with the Contract.

Supplier hereby grants to the Commonwealth a limited, non-exclusive, non-transferable, license for DMAS and its Solution Users to access and use the Solution & Cloud Services during the term of the Contract for DMAS’ internal business purposes. The license fee for the rights shall be as set forth in Exhibit B, and shall apply regardless of access mode but subject to the limitations of the license type described in Exhibit B of the Contract. The foregoing license is subject to any limits on number of Solution Users or other license limitations as set forth in Exhibit B to the Contract.

The Application(s) may be accompanied by or include software made available by one or more third parties, which such third party software is subject to the additional terms set forth in Section 16. To the extent the Application(s) or any Cloud Services provided to DMAS hereunder constitute inventory within the meaning of section 471 of the Internal Revenue Code, such Application(s) and/or Cloud Services are licensed to the Commonwealth by Supplier as agent for its product company subsidiary on the terms and conditions contained in this Exhibit.

DMAS is an agency, as defined by §2.2-2006, of the Commonwealth of Virginia or other body referenced in Title 2.2 of the Code of Virginia, therefore, the license shall be held by the Commonwealth.

Notwithstanding any unilateral license terms which may be issued by Supplier after the Effective Date of the Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of this Contract, including access to the Application(s), or the fact that such other agreement may be presented to DMAS or its Solution Users at the time of accessing the Application(s) (“click wrap”), the terms and conditions set forth in this Contract and any amendments or modifications thereto shall supersede and govern licensing and use of the Solution and Cloud Services hereunder, except as otherwise stated in the Contract and/or its Exhibits.

4. SUPPLIER RESPONSIBILITIES

A. Standard Application Responsibilities

Unless otherwise indicated in the requirements section of the Contract or its Exhibits, Supplier shall acquire and maintain, at no additional charge to DMAS, the hardware and software required to host the Solution as part of the Cloud Services. The Solution must continue to meet the Requirements and SLAs at all times. In addition:

- i) Supplier shall maintain sufficient hardware capacity to satisfy the technical requirements and the bandwidth and required storage capacity indicated in Exhibit A.
- ii) Supplier shall be responsible for all telecommunication connections from the server hosting the Application to the Internet. DMAS shall be solely responsible for maintaining all software, hardware and other equipment used by DMAS to access and use the Solution/Cloud Services. Such equipment used by non-DMAS Solution Users to access and use the Solution/Cloud Services are not the responsibility of the Supplier.
- iii) Supplier may collect Solution User-specific data only as necessary to provide the Cloud Services authorized under the Contract. No such Solution User-specific data shall 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 extend beyond the term of the Contract.
- iv) The Solution will be made available to DMAS and its designated Solution Users twenty-four (24) hours a day, seven (7) days a week for ninety-nine percent (99%) of the time, less Excusable Downtime measured on a calendar month basis commencing thirty (30) days following the commencement of the Operations and Maintenance phase ("Uptime" or "System Availability"). For Solution units deployed in production during the DDI phase, the SLAs will be tracked and reported as per this section, however no Service Level Credit Allocation shall be assessed until thirty (30) days following the commencement of the O&M phase. For the purposes of this Contract, "Excusable Downtime" is defined as that period of time when the Solution is not available to DMAS or its Solution Users due to scheduled network, hardware or service maintenance; Updates and/or upgrades, according to the agreed upon Maintenance Schedule provided by Supplier and approved by DMAS on an annual basis. Except in cases of emergency, DMAS shall be provided a notice per the Maintenance Schedule, or, at a minimum, five (5) business day advance notification of such maintenance and/or upgrade. In cases of emergency, Supplier will use its best efforts to notify DMAS of a planned or Excusable Downtime as soon as practicable. Maintenance or upgrade downtime are not to exceed thirty-six (36) hours in duration in a single month and cannot occur Monday through Friday, between the hours of 6:00 a.m. and 8:00 p.m. Eastern Time. See Attachment A for Excusable Downtime Service Level Agreements.
- v) Excusable Downtime shall not include (i) an electronic hardware failure, (ii) a failure in the Supplier's Application, (iii) an electric utility failure at Supplier's facility where the Application is hosted, or (iv) a network failure up to, but not including, the interconnection point of Supplier's network to the public switched telephone network.
- vi) As per Attachment A, the Solution/Cloud Services will be available for use at least ninety-nine percent (99%) of the total time during each month, excluding Excusable Downtime.
- vii) Intentionally Left Blank
- viii) Supplier shall be required to notify DMAS in writing at least sixty (60) days prior to of any planned change(s) or Update(s) to the Solution not outlined in the implementation timeline agreed to by both parties; the Solution functionality; Content storage/ backup/disaster recovery, including physical location; security architecture, features or settings; terminations and/or replacement of any Supplier subcontractor to the extent Supplier receives such amount of advance notice from the Supplier subcontractor. The planned changes or Updates include any change(s) that would potentially impact the secure and efficient use of the Application, as understood and agreed to between Supplier and DMAS at Contract award. The purpose of this notice is to allow sufficient time for Supplier and DMAS to discuss any technical/functional considerations and/or changes that would require action by the Commonwealth. Changes to

the Application & Solution or Cloud Services that affect the Requirements can only be implemented via an approved change order.

- ix) Supplier is responsible for documenting and maintaining any changes, modifications or customizations to the Solution made for operational use of the Solution and/or for interoperability use with other systems or applications used by DMAS within the MES environment, per processes to be outlined in "Configuration Management Plan" and the "Change Management Plan." The associated Documentation pertaining to such changes to the Solution shall be provided by Supplier to DMAS per the above referenced plans.
- x) Supplier will produce a RACI chart/matrix as part of its agreement with its subcontractor tasked with providing cloud services, to document roles and responsibilities between the Supplier and such subcontractor, for addressing security incidents. Such report shall be provided to the Department during DDI.

B. Ancillary Responsibilities

Supplier shall, throughout the term of this Contract, make available such resources, including Supplier personnel, as are reasonably required to: (i) train designated DMAS personnel in the use of the Solution to the extent expressly set forth in the Requirements or elsewhere in the Contract or its Exhibits; (ii) develop modifications to the Solution as agreed by DMAS and Supplier in the Contract or any exhibit hereto or as agreed to by Supplier and DMAS in writing; and (iii) otherwise support the Solution as provided under this Contract and any exhibits hereto or as agreed to between Supplier and DMAS in writing.

C. Subcontractors

Supplier shall not use subcontractors to perform its contractual obligations under the Contract unless specifically authorized in writing to do so by DMAS. If a part of this Contract is supported in whole or in part with federal funds, Supplier shall not subcontract to any subcontractor that is a party excluded from Federal Procurement and Non-procurement Programs. In no event shall Supplier subcontract to any subcontractor which is debarred by the Commonwealth of Virginia or which owes back taxes to the Commonwealth and has not made arrangements with the Commonwealth for payment of such back taxes.

If Supplier subcontracts the provision of any performance obligation under this Contract to any other party, Supplier will (i) act as prime contractor and shall be the sole point of contact with regard to all obligations under this Contract, and (ii) hereby represents and warrants that any authorized subcontractors shall perform in accordance with applicable laws and any applicable warranties set forth in the Contract and Exhibit G.

Supplier is responsible for the performance of its subcontractors used in providing any portion of the Solution. Additionally, Supplier is responsible for its subcontractors' compliance with the terms and conditions of this Contract. In the event of the filing of a petition in bankruptcy by a subcontractor, the Supplier shall immediately so advise DMAS. The Supplier shall ensure that all tasks that have been delegated to its subcontractor(s) are performed in accordance with the terms of this Contract.

DMAS acknowledges the limited use of subcontracting portions of the Services to Supplier affiliates or related entities and third parties as specified in detail in the Supplier's proposal.

5. DMAS RESPONSIBILITIES

As applicable, DMAS or a Solution User, will be responsible for input of Content into the Solution and DMAS or a Solution User will be responsible for keeping said Content current and accurate. Supplier will have no responsibility for assisting DMAS in creating, modifying or inputting the Content, unless specified in this Contract. DMAS shall be solely responsible for maintaining in effect at all times during

the term of the Contract all rights required for use of any Content in connection with the Solution and the Cloud Services, and obtaining and providing Content in accordance with applicable laws.

A. USERIDs & Passwords

Regarding USERIDs and passwords issued by the Supplier using either a self-provisioning or a manual process:

- i. Supplier shall provide DMAS (as a part of the Solution) the tools, processes, access, and support to manage these USERIDs.
- ii. DMAS shall have the right to add, change access for, or delete USERIDs at its sole discretion. DMAS shall designate administrators who will be authorized to add, change access for or delete USERIDs.
- iii. Upon notification by DMAS of a Solution User's deletion, Supplier shall remove said Solution User from its server within the timeframe stated in the Security Plan provided by the Supplier and agreed upon by DMAS. If Supplier fails to make such a deletion, DMAS shall not be held liable for any charges or damages incurred due to use of the unauthorized USERID.
- iv. DMAS agrees to notify Supplier of any degradation, potential breach, or breach of the Content and Solution privacy or security as soon as possible after discovery. DMAS further agrees to provide Supplier the opportunity to participate in the investigation of the reported situation.

6. CONTENT PRIVACY AND SECURITY

Supplier shall provide a secure environment for Content and any hardware and software, including servers, network and data components provided by Supplier as part of its performance under the Contract & this Exhibit G, if applicable. Supplier shall implement and maintain security controls designed to provide a secure environment for Content and any hardware and software in accordance with the Commonwealth's Hosted Environment Information Security Standard (SEC 525) & Information Security Standard (SEC 501) in order to prevent unauthorized access to and use or modification of, and to protect, the Application and Content. Supplier agrees that all Content of DMAS is intended solely for the business of DMAS and is considered private data. Therefore, Supplier shall, at a minimum, implement the following procedures designed to protect the privacy and security of Content:

- i). User identification and access controls designed to limit access to Content to Solution Users in accordance with the principles of least privilege.
- ii). Supplier shall ensure that all personnel with physical or logical access to Content will receive industry standard annual security awareness training and all other training as required by Content owner, Commonwealth security standards, regulation, or law; provided, however, that the Supplier is not responsible for any such training for DMAS personnel and Solution Users.
- iii). Supplier shall ensure that the Application and/or Cloud Services are capable of auditing the following events: successful and unsuccessful account logon events, account management events, object access, policy change, privilege functions, process tracking, and system events.
- iv). Supplier shall ensure that the Application and/or Cloud Services are capable of auditing the following events, for Web applications: all administrator activity, authentication checks, authorization checks, data deletions, data access, data changes, and permission changes.
- v). Supplier shall ensure that the Application and/or Cloud Services employs automated mechanisms to centrally review, analyze and correlate audit and log records from multiple components of the Application and/or Cloud Services to support organizational processes for investigation, alerting and response to suspicious activities.
- vi). Supplier shall ensure that the Application and/or Cloud Services support exporting of log files to the Commonwealth for review and analysis.

- vii). Supplier shall ensure that the Application and/or Cloud Services are capable of maintaining all audit records in accordance with Commonwealth's General and Specific Retention Schedules for State Agencies found at the following URL. <http://www.lva.virginia.gov/agencies/records/>.
- viii). Provide evidence of a comprehensive continuous monitoring program encompassing all systems with access to Content.
- ix). Provide evidence that the Application and/or Cloud Services adhere to a security baseline, which is based on least functionality.
- x). Supplier shall ensure that all changes to proposed Application and/or Cloud Services are authorized according to change management policies.
- xi). Supplier agrees to maintain all metadata associated with any original Content submitted into the Application and/or Cloud Services by DMAS for easy retrieval and access, using secure industry standard protocols, within a predefined period as specified in the Contract.
- xii). Supplier agrees to provide a secure method of exporting Content when requested.
- xiii). Supplier shall ensure that the Content exported from the Supplier's Application or infrastructure is in an industry standard format that provides for interoperability and portability.
- xiv). Supplier shall ensure that the Application and/or Cloud Services provides and maintain a backup of Content that can be recovered in an orderly and timely manner within a predefined frequency consistent with recovery time and recovery point objectives, as specified in the Contract.
- xv). Supplier shall ensure that the Application and/or Cloud Services can store a backup of Content, at least daily, in an off-site "hardened" facility, located within the continental United States, maintaining the security of the Content.
- xvi). Implement a contingency plan designed to maintain the access to the Application and/or Cloud Services and to prevent the unintended destruction or loss of Content. This plan should provide a predefined frequency, consistent with recovery time and recovery point objectives, as specified in the Contract, for disaster recovery and archival purposes of Content at a secure facility located within the continental United States.
- xvii). Supplier shall partition, in aggregate for this Contract, all Content submitted into the Application and/or Cloud Services by DMAS in such a manner that it will not be impacted or forfeited due to E-discovery, search and seizure or other actions by third parties obtaining or attempting to obtain records, information or Content for reasons or activities that are not directly related to the business of DMAS.
- xviii). Service must support multi-factor authentication for access to any administrative portal and/or any remote administrative interface.
- xix). Supplier shall fully cooperate with Commonwealth incident response resources and all required law enforcement personnel for assistance in the handling and reporting of security incidents.
- xx). Supplier shall maintain an incident response program that implements incident handling for security incidents that includes preparation, detection and analysis, containment, eradication, and recovery processes.

- xxi). Incident response must have the capability to support automated mechanisms for supporting incident handling processes.
- xxii). Supplier shall provide documentation regarding incidents and investigations to DMAS for inclusion in the Commonwealth's incident handling system.
- xxiii). Supplier shall provide quarterly summary reports of Intrusion Detection System (IDS) or Intrusion Prevention System (IPS) events to: enterpriseservices@vita.virginia.gov
- xxiv). Supplier ensures that all Content is removed or destroyed in accordance with and/or exceeding the requirements of the Commonwealth Data Removal standard (SEC 514-04) located at the following URL. <http://www.vita.virginia.gov/library/default.aspx.id=537#securityPSGs>
- xxv). Supplier shall support physical security measures, including securing all Content on a secure server, in locked data cabinets within a secure facility located within the continental United States.
- xxvi). Supplier shall ensure that access to facilities housing Content or supporting applications are restricted to only allow access to Supplier's personnel and agents who have a need to know in connection with operation and support of the Application and/or Cloud Services.
- xxvii). Supplier shall ensure that notification is sent to DMAS in writing thirty (30) days prior to its intention to replace or add any third-party, not to include the name of individuals within the third party, that will be provided access to Content whether that access is provided by Supplier or Supplier's subcontractors. The DMAS may reject any additional or new third parties who may be provided access to Content. Supplier agrees that Supplier shall be obligated to require that any such third party institute appropriate controls with its employees to protect the Content being accessed.
- xxviii). Supplier shall ensure that the Application and/or Cloud Services operating systems, middleware, applications, and interfaces will be scanned for vulnerabilities every 30 days and scanning reports be provided to DMAS as required by Commonwealth security standards.
- xxix). Supplier shall cooperate with the Commonwealth to allow monthly vulnerability scans against all public-facing interfaces with access to Commonwealth data.
- xxx). Application and/or Cloud Services must have the capability to set affinity on tiered systems. Supplier ensures that no one hypervisor can host the application and the data storage.
- xxxi). Supplier shall ensure that all Content is stored, processed and maintained within the continental United States at all times.
- xxxii). Supplier shall report the exact geographic location (City, State) of all Commonwealth data any time that Content is not stored in a Commonwealth facility, including backup and replicated data. Supplier shall provide a report to confirm the exact geographic location of any Content not stored in a Commonwealth facility every 30 days.
- xxxiii). Supplier shall, at all times, remain compliant with the privacy and security requirements mandated by federal, state and local laws and regulations.
- xxxiv). Supplier shall require that its third-party provider have an independent AICPA SOC-2 (Type 2) audit be performed at least once annually of the IBM cloud infrastructure supporting the Application's environment. Upon request from DMAS, Supplier shall provide a non-redacted copy of IBM's then current AICPA SOC-2 (Type 2) audit report with the knowledge that the

report will be shared within DMAS and VITA, with DMAS' auditors, the Centers for Medicare and Medicaid Services, State and Federal auditors, and/or any such duly authorized representatives, whereby DMAS otherwise agrees to maintain the confidentiality of such audit and to require anyone to whom DMAS provides such report to similarly maintain its confidentiality. The Trust Service Principles that should be covered in the SOC 2 Type 2 are: Security, Availability, Processing Integrity, Privacy, and Confidentiality.

- xxxv). Supplier shall ensure an independent third party audit organization, at the Supplier's sole cost and expense, performs a security audit (utilizing the Hosted Environment Information Security Standard [SEC525]) prior to the "go-live" date to determine control gaps between the Solution and the SEC525 framework. Supplier also understands that following Supplier's delivery to DMAS of the non-redacted copy of the security audit report, such report will be subject to review and approval by DMAS & Commonwealth Security Failure to complete the security audit may result in remedies being levied as provided in the terms and conditions of the Contract. DMAS reserves the right to conduct a SEC525 audit or utilize an authorized third-party to conduct such an audit if DMAS deems such action necessary.
- xxxvi). Supplier shall ensure that external connections incorporated into the Application and/or Cloud Services have appropriate security controls including industry standard intrusion detection and countermeasures that will detect and terminate any unauthorized activity prior to entering the firewall maintained by Supplier.
- xxxvii). Supplier shall ensure that the Application and/or Cloud Services will utilize industry standard firewalls regulating all data entering the internal data network from any external source which will enforce secure connections between internal and external systems and will permit only authorized data to pass through.
- xxxviii). Supplier shall ensure that the Application and/or Cloud Services will use industry standard encryption techniques to protect Content that is transmitted or stored on behalf of the Commonwealth. Supplier shall ensure that the Application will provide for the Commonwealth to maintain exclusive control of all encryption keying material.
- xxxix). Supplier shall ensure that they will apply all security updates to its systems as required by Commonwealth security standards. For third-party hosted systems, updates should be installed in compliance with SEC 525. Systems hosted by the Commonwealth should have updates installed in compliance with SEC 501. Please refer to the following link for the above mentioned Commonwealth security standards.
<http://www.vita.virginia.gov/library/default.aspx.id=537#securityPSGs>.
- xl). Supplier shall ensure that they will utilize industry standard malware protection, incorporating both signature and non-signature-based detection mechanisms, on all systems with access to Content.
- xli). Supplier shall ensure that malware protection will be centrally managed and receive regular automatic updates to malicious code protection mechanisms and data files from the software vendor.
- xlii). Within fifteen (15) business days after the expiration or termination of this Contract, Supplier shall confirm in writing to DMAS that all Content has been removed from all systems where the Content resided during performance of this Contract in a manner that complies with and/or exceeds the Commonwealth Data Removal standard located at the following URL: <http://www.vita.virginia.gov/library/default.aspx.id=537#securityPSGs>. The written confirmation shall include (i) sufficient detail describing the processes and procedures used in removing the Content, (ii) information about the locations of where it was removed from within the Application

and storage and other locations, and (ii) the date the removals were performed. All metadata, in its original form, shall be returned to DMAS.

- xliii). Supplier shall provide regular training for Supplier personnel regarding the security and data recovery programs referenced in this Section.
- xliv). Supplier shall provide regular testing of the systems and procedures outlined in this Section; and
- xliv). Supplier shall use audit controls that record and monitor Application and Cloud Services activity continuously.
- xlvi). Should Supplier fail to perform in compliance with any provision of this Section, DMAS may provide Supplier with a written notice to cure. Supplier shall have thirty (30) days to cure its noncompliance, or with agreement from DMAS and VITA, in its governance role, may request a reasonable extension for time to cure providing DMAS, and a copy to VITA at: enterpriseservices@vita.virginia.gov, with a written plan of action to cure. The time period for curing the breach may be adjusted by DMAS upon written notice to the Supplier, at DMAS' sole discretion, but not less than what is appropriate to the complexity and severity of the matter. If Supplier fails to cure, DMAS may deem Supplier in breach and/or default of the Contract and may immediately terminate the Contract, in whole (or in part, subject to the execution of a change order). Upon such termination, neither the Commonwealth, nor DMAS, nor VITA shall have any future liability except DMAS will be responsible for Deliverables accepted by DMAS and Services and Cloud Services rendered to DMAS by Supplier. In the event of such termination under Section 3 of the Contract, Supplier agrees that DMAS may pursue all remedies provided under law in the event of a breach or threatened breach of this Section, including procurement or transition costs or injunctive or other equitable relief.

7. PROPRIETARY RIGHTS

A. Supplier's Proprietary Rights

The Application(s) and Cloud Services embody valuable copyright, patent, trademark, trade secret and other intellectual property rights owned or licensed by Supplier. Supplier or its licensors retain all right, title and interest in all such proprietary rights and property, and DMAS and Solution Users shall have no interest in any such rights or property, nor will anything contained in this Exhibit constitute a license or grant of any rights to DMAS or any Solution User with respect to any copyright, patent, trademark, trade secret or any other intellectual property right other than as specifically provided in the license in Section 3 of this Exhibit. See also Section 7 of the Contract regarding Rights to Work Product.

B. DMAS Requirements and License Restrictions

DMAS and Solution Users are prohibited from and shall not:

- i. de-compile, reverse engineer or disassemble the Application(s) or apply any other process or procedure to derive the source code thereof, or allow any third party to do so;
- ii. sell, re-license, rent, lease, provide service bureau or timeshare access to, the Application(s);
- iii. use the Application(s) for incorporation in any device, article, commodity, product or goods for use by or sale or lease to third parties, or for the provision of services to third parties outside the MES environment or as otherwise specified in the RFP and the Requirements; or
- iv. modify, publish, transmit, reproduce, create derivative works from, distribute, perform, display or in any way exploit the Application(s) in whole or in part

In addition, DMAS and the Solution Users shall not use or permit third parties to use the Application(s) or the Cloud Services in any way that (A) unduly interferes with or disrupts other

network users, network services or network equipment, including spamming; (B) results in the introduction of computer worms or viruses; (C) involves the use of false identities; (D) attempts to gain unauthorized entry to any servers or databases through which such Application(s) or Clouds Services are provided; or (E) is in violation of the acceptable use policy set forth in Section 16 ("Acceptable Use Policy"). Supplier warranty shall be rendered null and void to the extent that the failure is directly & solely attributable to DMAS or a Solution User to comply with the foregoing gives rise to any such obligation.

DMAS acknowledges that Supplier reserves the right to, at any time, audit use of the Application(s) to ensure they are being used in accordance with the terms of this Exhibit and to take such action as it deems necessary.

C. DMAS Proprietary Rights

Except as otherwise stated herein and with the exception of any applicable third-party rights, Content and, subject to Section 7, any Work Product made for DMAS operation of the Solution or for interoperability with other DMAS systems or applications paid for by DMAS, are and shall remain the sole and exclusive property of DMAS, including all applicable rights to patents, copyrights, trademarks, trade secrets or other proprietary property rights thereto. Additionally, all right, title and interest in and to any Content shall remain the property of DMAS, whether or not supplied to Supplier or uploaded into the Solution. Nothing in this Contract shall be construed as conveying any rights or interest in Content to Supplier. Upon termination of the Contract, Supplier agrees to either provide the Content to DMAS, or, at DMAS request, certify in writing that said Content in all formats, has been destroyed. See also Section 7 of the Contract on Right to Work Product.

8. TRANSITION ASSISTANCE

Upon execution of this Contract, Supplier and DMAS will develop a transition plan ("Transition Plan") in writing detailing what shall occur upon termination or expiration of the Contract. The Transition Plan will detail each party's respective tasks for the orderly transition and migration of all Content from the Solution to DMAS archive and/or to a system or application maintained by DMAS or a third party application service provider and agreed in writing by DMAS and Supplier.

At a minimum, the Transition Plan shall provide that upon expiration or termination of this Contract for any reason, Supplier will return all Content in its possession to DMAS in a format accessible without the use of Supplier's Application, or at DMAS request, certify in writing, that said Content, in all formats, has been destroyed. In addition, Supplier will, at DMAS option and subject to the execution of a change order between the parties, continue to provide Cloud Services for up to six (6) months after the date of expiration or termination of the Contract in order to facilitate DMAS transition to a new service provider at the rates agreed to in Exhibit B. DMAS shall pay Supplier for such Cloud Services & assistance at the hourly rate or charge agreed upon by the Supplier and DMAS in Exhibit B. Supplier shall also provide such reasonable assistance as may be requested by DMAS to effectuate such transition, under Section 3.H of the Contract.

Supplier shall, within thirty (30) days of expiration, completion, or termination of this Contract provide to DMAS a complete set of all Content provided to Supplier by DMAS and/or its Solution Users and stored by the Application on behalf of DMAS, or at DMAS request, certify in writing that said Content, in all formats, has been destroyed. Supplier's failure to do so shall constitute a breach of this Contract and, in addition to the remedies set forth in this Contract, DMAS may exercise all available rights and remedies under law and equity.

The obligations set forth in this section and in any Transition Plan developed pursuant to the Contract may extend beyond expiration or termination of the Contract as set forth in Section 3.H of the Contract.

9. COMMENCEMENT AND ACCEPTANCE OF CLOUD SERVICES

A. Cloud Services Commencement Date

The Supplier shall begin delivery of Cloud Services on the date requested by DMAS and agreed to by the Supplier in the Contract and implementation timeline, or such other date as mutually agreed upon via the then-current "Work Plan."

A. Acceptance

The Cloud Services shall be accepted when DMAS reasonably determines that DMAS and its Solution Users can successfully access and use all functionalities of the Solution/Cloud Services that Supplier is required to provide to such Users, and DMAS notifies Supplier in writing of its acceptance or rejection on the basis of Contract & Requirements (the "Acceptance Criteria for Software and Deliverables" and "Acceptance Criteria for the Solution" as described in "Quality Assurance/Test Management Plan") within the timeframes established in such documentation and the Work Plan. DMAS agrees to commence and conduct Acceptance testing in accordance with the agreed upon Work Plan and the DMAS approved Quality Assurance/Test Management Plan. Supplier agrees to provide to DMAS such assistance and advice as DMAS may reasonably require, at no additional cost, during such Acceptance testing, other than pre-approved travel expenses. Any such travel expenses must be pre-approved by DMAS at the then-current per diem amounts as published by the Virginia Department of Accounts (http://www.doa.virginia.gov/Admin_Services/CAPP/CAPP_Topics/20335_Meals_Lodging_102008.pdf), or a successor URL(s)). DMAS shall provide to Supplier written notice of Acceptance upon completion of successful Acceptance testing. Should DMAS fail to provide Supplier written notice of successful or unsuccessful Acceptance testing within five (5) days following the Acceptance testing period, the Application/Cloud Services shall be deemed Accepted. Deeming shall not be acceptable for the Final Solution Acceptance criteria.

B. Cure Period

Supplier shall correct any Defects (also referred to as "non-conformities" in this Section 9) identified during Acceptance testing, and re-submit such previously non-conforming Solution or unit of the Solution or Services/Cloud Services for re-testing in accordance with the timeframes set forth in the mutually agreed upon Acceptance Criteria regarding non-conformity, or as otherwise agreed between DMAS and Supplier. Should Supplier fail to deliver a Solution/unit of the Solution which meets the Requirements, after a second set of Acceptance tests, DMAS may, in its sole discretion: reject and return the Solution/non-conforming unit of the Solution in its entirety and pursue remedies hereunder and at law, or conditionally accept the applicable Solution/non-conforming unit of the Solution while reserving its right to revoke Acceptance if timely correction is not forthcoming, including invoking the warranty provisions contained in the Contract and this Exhibit G. Failure of the Solution/unit of the Solution to meet, in all material respects, the specifications and performance standards/Requirements after the second set of acceptance tests may constitute a default by Supplier. In the event of such default, DMAS may, at its sole discretion, terminate this Contract in accordance with Section 3.C of the Contract. All costs of de-installation and return of product or Software shall be borne by Supplier. This remedy is in addition to and not in lieu of any other remedies of DMAS set forth herein or available at law or in equity.

10. RECORDS AND AUDIT

Supplier shall maintain accurate records and other evidence pertaining to the charges for all Cloud Services performed/delivered under this Contract in support of its charges invoiced to DMAS. The records will be to the extent and in such detail as will properly reflect all direct charges for the Cloud Services under the Contract. In addition, Supplier shall maintain accurate service level agreement performance records of the Cloud Services, including but not limited to, the "Uptime" and "Downtime" as set forth in Section 12 and the applicable service level agreements referenced in Attachment A. DMAS shall have the right, at any reasonable time during regular business hours after giving

reasonable advance notice, to inspect and audit such records. Supplier shall preserve such records for three (3) years after termination/completion of the Cloud Services agreed to under this Contract.

In addition to the requirements outlined below, the Supplier must comply, and must require compliance by its subcontractors, with the security and confidentiality obligations under this Contract.

1) Access to Records - DMAS, the Centers for Medicare and Medicaid Services, state and federal auditors, or any of their duly authorized representatives shall have access to any books, publicly available annual reports, documents, papers, and records of the Supplier and any of its subcontractors, supporting the fees and expenses incurred in performing the Services/Cloud Services. Access to such records includes any records that are stored offsite.

DMAS, the Centers for Medicare and Medicaid Services, state and federal auditors, or any of their duly authorized representatives, shall be allowed to inspect, copy, and audit any of the above documents to the extent reasonably necessary to substantiate payment made under this Contract, or otherwise as required by law.

2) Retention of Records - The Supplier shall retain all records and reports relating to this Contract for a period of six (6) years after final payment is made under this Contract or in the event that this Contract is renewed six (6) years after the final payment. When an audit, litigation, or other action involving or requiring access to records is initiated prior to the end of said period, however, records shall be maintained for a period of six (6) years following resolution of such action or longer if such action is still ongoing. Copies on microfilm or other appropriate media of the documents contemplated herein may be substituted for the originals provided that the microfilming or other duplicating procedures are reliable and are supported by an effective retrieval system which meets legal requirements to support litigation, and to be admissible into evidence in any court of law.

The Supplier shall not have the right to audit, or require to have audited, DMAS.

11. APPLICATION AND CLOUD SERVICES SUPPORT

Supplier shall provide the following Cloud Services (including telephonic support and all necessary travel and labor) without additional charge to DMAS in order to ensure DMAS and its Solution Users are able to access and use the Solution in accordance with the Requirements and Exhibit B.

A. Coverage

Supplier shall provide to DMAS all reasonably necessary telephone or written consultation requested by DMAS in connection with use, problems and operation of the Solution, consistent with the portion of Supplier's Technical Proposal addressing Hours of Operation Requirements, and Requirement ISS-SR-HOP-001. The Supplier will provide end user telephone consultation and email support (the "Help Desk Support") during the hours of 6:00AM-8:00PM (Eastern Time), Monday through Friday excluding official Commonwealth of Virginia closed holidays (the "Help Desk Hours"). Additional Help Desk support outside of the Help Desk Hours can be arranged in advance to support DMAS during anticipated high-need periods. Critical issue system support, defined as handling any critical system availability issues, will be provided on a 24X7X365 basis by the Supplier.

B. Service Levels

Supplier shall respond to problems with the Solution identified by DMAS in no more than one (1) hour after notification during normal "Hours of Operations" as described in the Supplier's Technical Proposal. Supplier shall resolve all problems in accordance with applicable SLAs.

The level of severity (e.g., 1, 2, 3, 4), shall be defined by DMAS via approval of the Supplier's "Quality Management Plan" and "Risk and Issues Management Plan", which includes the escalation

management plan, during the DDI phase. Service levels will not be assessed until one month following the beginning of the O&M period, as described below in Section 12.

C. Application Evolution

Should Supplier merge or splinter the Application or other units of the Solution/Cloud Services previously provided to DMAS, such action on the part of Supplier shall not in any way result in DMAS being charged additional license or support fees in order to access the Solution/Cloud Services, to enable its Solution Users to access the Application/units of the Solution or Cloud Services pursuant to the applicable license terms hereof, or to receive enhancements, releases, upgrades or support for the units of the Solution/Cloud Services.

12. SERVICE LEVELS AND REMEDIES

A. Service Level Metrics

Commencing thirty (30) days following the completion of the Design, Development and Implementation (“DDI”) phase and implementation of the full Solution into the production environment, a failure by Supplier to meet a Service Level in a given month that is due to fault of Supplier or the Supplier’s Solution/Cloud Services shall be deemed a service level default (“Service Level Default”) and DMAS may obtain the non-exclusive remedies set forth in Attachment A , Table of Service Levels and Remedies for Cloud Services, for the applicable Service Level Default (“Service Level Credit”).

Service Level Credits shall be applied against the next invoice. In the event a Service Level Default occurs and DMAS elects to assess the applicable credit after DMAS has given notice of termination pursuant to the Term and Termination section of this Contract or due to non-appropriation of funds, or DMAS has made final payment to Supplier under this Contract and no further invoices shall issue as a result, Supplier shall refund to DMAS the amount of the appropriate Service Level Credit due for the period of default.

B. Provisioning

Incremental adds, moves or reduction of MES Users (USERIDs) in the Identity, Credentials and Access Management Solution (ICAM) is done using a ‘self-provisioning’ process made available by the Supplier’s SSO website. Certain USERIDSs, such as privileged or system USERIDS, can be requested manually by DMAS for provisioning outside of the SSO website.

Access to a specific MES module is provided by that module supplier based on its approved business process and SLAs applicable to the module supplier.

Incremental adds, moves or reduction in the scope of Application Services as it relates to access to suppliers of various MES modules is done in accordance with the ISS Work Plan, ISS Detailed Specification Design (DSD) and the Operating Level Agreements entered between the Supplier and other MES suppliers and approved by DMAS.

C. Reporting

Once each calendar month during the term of this Contract, commencing thirty (30) days following the completion of the applicable Design, Development and Implementation (“DDI”) phase and implementation of the full Solution into the production environment, Supplier shall provide DMAS with a written report that shall contain information with respect to the Service Level performance. For Solution units deployed in production during the DDI phase, the SLAs will be tracked and reported as per this section, however no Service Level Credit Allocation shall be assessed until thirty (30) days following the commencement of the O&M phase. Supplier shall submit a copy of each report to VITA at: enterpriseservices@vita.virginia.gov. Such report, unless otherwise agreed upon by the parties, shall be in conformity with the reporting Supplier provides to its other customers utilizing an application and cloud services identical or similar to the Application and Cloud Services provided to DMAS. Representatives of Supplier and DMAS, and VITA at its option, shall meet as often as may be reasonably requested by either party, but no less often than once each calendar quarter, to review Supplier’s performance of Cloud Services and the performance of the Application

and to discuss technical plans, financial matters, system performance, service levels and for any other matters related to this Contract that may be reasonably requested by either Supplier or DMAS. Supplier shall notify VITA of such meetings by email to: enterpriseservices@vita.virginia.gov. DMAS or VITA may independently audit the report at its expense no more than two (2) times annually.

D. Failure to Meet Service Level Commitments

In the event that such Application fails to meet the Service Levels specified herein, Supplier will be assessed the Service Level Credit, and will either (at its option): (i) promptly replace the Solution, or a portion thereof with a Solution, or portion thereof, that conforms to the applicable Service Levels; or (ii) repair the Solution, or a portion thereof, at Supplier's expense, so that it conforms to the applicable Service Levels. In the event Supplier fails to comply with these remedies, DMAS may exercise all available rights and remedies under law and equity, and the Contract, provided that any damages that may be awarded as a result of any such failure or any incident or failure giving rise to the applicable failure to meet the Service Levels shall be reduced by any credits assessed hereunder.

If, and to the extent, a single event for which Supplier or Supplier's Solution/Cloud Services is responsible causes more than one SLA not to have been met, DMAS shall be entitled to recover the remedy corresponding to the highest amount available rather than multiple remedies for the same event. Reoccurrence of the same event, or a similar event, more than one time will be treated separately.

E. Escalation Procedures

Supplier shall provide a Performance Reporting Plan and Status Summary to DMAS that shall track Supplier's performance against its applicable Service Level Commitments and resolution of Corrective Action Plans at the frequency and with the content set forth in Supplier's Technical Proposal. The content of Supplier's Performance Reporting Plan and Status Summary shall be one of the mutually agreed upon DDI implementation documents.

13. CYBER SECURITY LIABILITY INSURANCE

In addition to other insurance coverage requirements in the Contract, Supplier shall carry Professional Liability insurance in an amount not less than Ten Million Dollars (\$10,000,000.00) per claim on a claims-made coverage basis with Cyber Liability insurance, with coverage that includes (but is not limited to) network security (unauthorized access/theft of data, viruses, denial of service attacks, misappropriation/deletion/disclosure of private or confidential information) and privacy liability (unauthorized disclosure of private information, personally identifiable information, identity theft or the violation of any federal, state, foreign or local privacy statute).

14. ESCROW AGREEMENT

Supplier shall maintain a copy of all Work Product in a (re)useable format, developed under this Contract for DMAS and any available English language technical and/or user documentation, if any (The "Escrowed Materials"), in an escrow account, and shall maintain with escrow agent the executed agreement attached hereto as Exhibit C (Escrow Agreement). DMAS acknowledges that, prior to the Effective Date of this Contract, Supplier delivered to DMAS, and DMAS received a copy of the executed Application Escrow Agreement naming the Commonwealth of Virginia as a third party beneficiary. DMAS has reviewed the Application Escrow Agreement to ensure that such Application Escrow Agreement does not impose upon the Commonwealth any requirements other than administrative responsibilities necessary for the operation of the Application Escrow Agreement. If events give rise to a need for the escrow agent to release escrowed materials to the Commonwealth, the Commonwealth's sole responsibility shall be to request the release of such materials from the escrow agent. Supplier agrees to notify DMAS in writing not less than thirty (30) calendar days prior to termination or any modification of the Application Escrow Agreement.

The Escrow Agreement shall name as a third party beneficiary DMAS whose Content is kept in escrow pursuant to the Escrow Agreement. Supplier warrants that the information and materials to be kept in escrow in a media safe environment for the benefit of the Commonwealth pursuant to the Escrow Agreement are specifically identified and listed in Attachment A to the Application Escrow Agreement and include the most current version used by DMAS of the Escrowed materials, to include the following, as applicable:

- i. the source code for the Custom Software, copies of the configuration files, and all future release versions,
- ii. all Documentation related thereto as well as all necessary and available information, which must be in English,
- iii. technical Documentation must be in English and shall enable DMAS, or an Agent of DMAS or any Authorized User to create, maintain and/or enhance the Custom Software/Work Product without the aid of Supplier or any other person or reference to any other materials, maintenance tools (test programs and program specifications), or proprietary or third party system utilities (compiler and assembler descriptions); descriptions of the system/program generation; and descriptions of any Supplier tools required to enable DMAS and all Solution Users to make use of the Work Product, and
- iv. all Documentation must be provided in unprotected MS Word and other commonly used formats that can be updated.

Supplier warrants that all Escrowed Materials shall be deposited in escrow for DMAS on a rolling semi-annual basis, such that updates or modifications to Escrowed Materials already deposited are added to prior deposits of the Escrowed Materials with that frequency. All Escrowed Material deposits shall be verified by the Escrow Agent within 30 days after deposit to validate the completeness, accuracy and functionality of the Supplier's escrow deposits. The verification process to be performed by the Escrow Agent for the original deposit and subsequent deposits shall be detailed in the Escrow Agreement and a detailed report of all tests of such verification shall be submitted in writing to DMAS or the Authorized User within 10 business days of completion. To perform such verification, Escrow Agent shall conduct a verification process that is limited to the following:

- i. File List Test - To ensure the deposited items are catalogued and confirm they are readable, (re)useable, and virus free,
- ii. Inventory and Analysis Test – To provide a complete audit and inventory of the deposit including analysis of deposited media to verify the presence of build instructions, to identify all of materials necessary to recreate the original development environment and to confirm the presence of all build instructions, file classification tables, database schema and listings.
- iii. Fault Remedy – To collaborate with Supplier on fixing any faults discovered during the testing, to obtain corrected escrow items and to re-perform any verification tests as necessary until all tests are successful, with written detailed reports to DMAS or the Solution User.

Supplier warrants that the Escrow Agreement provides for, among other items, the release of the list of items on Attachment A of the Escrow Agreement solely upon the happening of, (a) Supplier's failure to carry out its support and maintenance obligations imposed by this Contract for a period of sixty (60) days and the failure to cure such breach within the applicable cure period set forth in the Contract, (b) Supplier's bankruptcy, (c) Supplier's failure to continue to do business in the ordinary course. Supplier agrees to pay all expenses associated with establishing and maintaining the escrow account and the contents mentioned above.

In addition to any ownership rights the Commonwealth maintains in the Escrowed Materials, and subject to the information and materials listed on Attachment A of the Escrow Agreement being released to the Commonwealth pursuant to the terms of the Escrow Agreement, Supplier thereby grants to the Commonwealth a royalty-free, perpetual, irrevocable license to the Escrowed Materials,

that permits disclosure to a third party support-vendor of a complete and accurate copy of Escrowed Materials.

15. GENERAL WARRANTY

In addition to the warranty provisions contained in Sections 8 and 11 of the Contract, Supplier warrants and represents as follows:

A. Cloud Services, Application and Documentation

Supplier warrants the following with respect to the Cloud Services and the Application:

Supplier is possessed of superior knowledge with respect to the Application and is aware that DMAS is relying on Supplier's skill and judgment in providing the Cloud Services, including the Application.

i). Supplier represents and warrants it has the rights to grant the licenses to the Application as set forth herein and required to run the Solution, Services, and Cloud Services.

ii). Supplier warrants that the Application and Cloud Services will conform in all material respects to the requirements set forth in the Contract.

No corrections, changes, work arounds or future Application or units of the Solutions, or future releases provided by Supplier under the warranty provisions or under maintenance shall degrade the Solution/Services/Cloud Services, cause any other warranty to be breached, or require DMAS to acquire additional hardware equipment or software.

iii) Supplier warrants that the Documentation and all modifications or amendments thereto which Supplier is required to provide under this Contract shall, upon delivery, be sufficient in detail and content to allow a user/programmer to understand and utilize fully the Application without reference to any other materials or information.

B. Privacy and Security

Supplier warrants that Supplier and its employees, subcontractors, partners and third party providers have taken all necessary and reasonable measures to ensure that the Application, Cloud Services, Supplier Technology, and any related deliverables do not include any degradation, known security vulnerabilities, or breach of privacy or security. Supplier agrees to notify DMAS of any occurrence of such as soon as possible after discovery and provide DMAS with fixes or upgrades for security vulnerabilities within 90 days of discovery.

C. Operating System and Software Supportability

Supplier warrants that Supplier and its employees, subcontractors, partners and third party providers have taken all necessary and reasonable measures to ensure that the Application, Cloud Services, Supplier Technology, and any deliverables do not have dependencies on other operating systems or software that are no longer supported by Supplier, or its Subcontractors, partners and third-party providers.

D. Access to Product and Passwords

Supplier warrants that the Application and Cloud Services do not contain disabling code or any program device or other undisclosed feature, including but not limited to, viruses, worms, trojan horses, or other code which is designed to permit unauthorized access, delete, disable, deactivate, interfere with or otherwise harm the Application, Cloud Services or the hardware or software of DMAS or its Solution Users. In addition, Supplier warrants that DMAS and its Solution Users will be provided commercially reasonable uninterrupted access to the Application. Supplier also warrants that it will not cancel or otherwise terminate access to the Application by disabling passwords, keys or tokens that enable continuous use of the Application by DMAS and its Solution Users during the term of this Contract. Supplier further warrants that the Application and Cloud

Services are compatible with and will operate successfully on the equipment used by Supplier's Cloud Services vendor and as specified in the Contract.

16. THIRD PARTY SOFTWARE TERMS; ACCEPTABLE USE POLICY

A. Third Party Software

The Solution includes IBM software programs (the "Program"). IBM provides a License Information document ("LI") for each Program (and in some cases for updates, fixes and patches). The LI is document that provides information and any additional terms specific to a Program. The LI for a Program is available at www.ibm.com/software/sla/ and can also be found in the Program's directory, by the use of a system command, or as a booklet included with the Program.

If a Program contains non-IBM third party code that is provided to IBM under a third-party license agreement, then (i) this will be identified by IBM in the LI and the Notices Files; and (ii) the terms and conditions of the third party license agreement (and not those of the IBM license) apply to such third party code.

In addition to the Solution restrictions detailed in the Agreement, the following additional restrictions shall apply with respect to DMAS' use of each Program:

(i) DMAS shall not (i) reverse assemble, reverse compile, otherwise translate, or reverse engineer the Program, except as expressly permitted by law without the possibility of contractual waiver; or (ii) use any of the Program's components, files, modules, audio-visual content, or related licensed materials separately from that Program or (iii) sublicense, rent, or lease the Program except as expressly permitted in this Agreement.

(ii) If DMAS is permitted to make additional or back-up copies of the Program under the Agreement, such copy will be subject to the following: (i) in the case of back-up copies, the backup copy will not execute unless the backed-up Program cannot execute or its use is materially impaired and (ii) in all copies, DMAS will reproduce all copyright notices and other legends of ownership on each copy, or partial copy, of the Program.

B. Acceptable Use Policy

The Solution may not be used for unlawful, obscene, offensive or fraudulent content or activity, in any jurisdiction for any user, such as advocating or causing harm, interfering with or violating the integrity or security of a network or system, evading filters, sending unsolicited, abusive or deceptive messages, viruses or harmful code, or violating third party rights ("Acceptable Use Policy or AUP"). If there is a violation the AUP, Deloitte Consulting or its Cloud Services providers may temporarily suspend DMAS's use of the Cloud Services in accordance with the Term, Termination and Suspension section of the Contract.

Notwithstanding any provision in this Section 16, the aforementioned referenced Commonwealth security policies, standards and guidelines; i.e., SEC501 and SEC525, shall take precedence over any third party terms and conditions for the Cloud Services. For the purposes of statutory law as referenced and incorporated in Contract, Section 27, General Provisions, if there is any conflict with any third party terms, Section 27 of the Contract shall prevail.

**ATTACHMENT A
SERVICE LEVEL AGREEMENTS**

ID	Description	Measurement	Service Level Credit Allocation Percentage	Measurement Period
ISS-TECH-SLA-001	Must pass the Commonwealth's quality audits, as required by the Contract or otherwise mutually agreed upon.	As per contract	Not applicable	Upon Occurrence
ISS-TECH-SLA-002	System reports online for 2 years from the date of creation. System reports and respective retention periods shall be identified in the Services Management Manual.	Contractor report verification of System reports defined in the Design Documentation (DSD)	1% of the price per month	Monthly.
ISS-TECH-SLA-003	The Log data must be kept online for 90 days from the date of creation. Specific Log data required to be retained shall be identified in the Services Management Manual.	Logs defined in the Design Documentation (DSD)	1% of the price per month	Monthly
ISS-TECH-SLA-004	The Log data must be kept in the archive for 3 years from the date of creation. Specific Log data required to be retained shall be identified in the Services Management Manual.	Logs defined in the Design Documentation (DSD)	1% of the price per month	Monthly
ISS-TECH-SLA-005	The archive log data must be provided within 3 business days from date of the request. Specific Log data required to be retained shall be identified in the Services Management Manual.	Logs defined in the Design Documentation (DSD)	1% of the price per month	Monthly
ISS-TECH-SLA-006	Real-time response time. Category 1: Simple real time services with no integration services (translation, data augmentation, business rules, etc.) Category 2: real time services with basic translation services, but no external data augmentation, business rules or other service calls Category 3: real time services with translation, data augmentation, and other service calls Category 4: Extremely complex service calls for translation, external data augmentation, external	Measurement – time period into ISS firewall and out of ISS firewall. Category 1: 97% of all Category 1 transactions complete in less than or equal to 1 second Category 2: 97% of all Category 2 transactions complete in less than or equal to 3 seconds Category 3: 97% of all Category 3 transactions complete in less than or equal to 6 seconds Category 4: 97% of all Category	2% of the price per month	Monthly

	service calls.	4 transactions complete in less than or equal to 20 seconds		
ISS-TECH-SLA-007	<p>Post batch files to the ISS Contractor shall not exceed specified time frame based on the category of the service. The definition of the batch files to be included in each category will be defined in the design document (DSD) and documented in the Service Management Manual as well.</p> <p>Category 1: mission critical processes less than or equal to 60 minutes</p> <p>Category 2: low priority processes less than or equal to 4 hours</p>	Processing time <= the defined SLA for 98% of the transmissions. 100% of the files transmit successfully.	2% of the price per month	Monthly
ISS-TECH-SLA-008	<p>The Supplier must prioritize all issues into severity levels as defined by DMAS and mutually agreed by DMAS and the Supplier during the DDI phase in accordance with Section 11.B of this Exhibit G. The supplier must resolve them according to the established timeframes for the production system defects, as may be modified by mutual agreement in the Quality Management Plan Deliverable.</p> <p>Severity Level One (1) Defects: within 60 minutes of notification to or from Contractor during business hours (6:00AM – 8:00PM), or within 90 minutes of notification to or from Contractor outside of business hours</p> <p>Severity Level Two (2) Defects: within 4 hours</p> <p>Severity Level Three (3) Defects: within 5 business days</p> <p>Severity Level Four (4) or higher: within an agreed upon schedule between the Contractor(s) and the Department after the defect was identified</p> <p>If the error is not within the ISS solution and/or requires cooperation from other MES vendors, then providing that response will qualify as the resolution.</p>	<p>For Severity 1 ≥ 99% occurrences resolved as per defined SLA</p> <p>For Severity 2,3,4 ≥ 95% of the occurrences as per defined SLA.</p>	1% of the price per month	Monthly

	Defects resulting from an event triggering the Disaster Recovery obligations will not be subject to this Service Level.			
ISS-TECH-SLA-009	On the occurrence of a disaster within one of the active regions, the Contractor will restore essential services irrespective of the time the incident occurred	Restore in ≤ 120 clock minutes from the point a disaster is declared by Supplier	2% of annual contract value, calculated as twelve (12) times the price per month	Upon occurrence
ISS-TECH-SLA-010	A comprehensive technical and operational test of the Disaster Recovery (DR) Plan and Business Continuity Plan	Successful annual DR test in a contract year	2% of annual contract value, calculated as twelve (12) times the price per month	Upon occurrence
ISS-TECH-SLA-011	Website response times (Website response time is measured at the Contractor's router)	< 3 seconds 98%of the time.	2% of the price per month	Monthly
ISS-TECH-SLA-012	ISS services Availability of the Application: Scheduled Maintenance must not prevent transaction processing excluding Excusable Downtime	Availability ≥ 99%	2% of the price per month	Monthly
ISS-TECH-SLA-013	Availability of the test regions at all times. Test regions are defined as the SIT and UAT environments. Internal Supplier development and test environments are excluded from this SLA.	Availability ≥ 95% at all times	2% of the price per month	Monthly
ISS-TECH-SLA-014	Adhere to applicable State and Federal laws, rules, regulations, guidelines, policies, and procedures relating to information systems, information systems security and privacy, physical security, PHI confidentiality and privacy.	As per the Contract	Not Applicable	Upon Occurrence

ATTACHMENT B

TABLE OF SERVICE LEVELS, RESPONSE AND RESOLUTION TIMES AND ESCALATION PROCEDURES FOR CLOUD SERVICES

See Comprehensive List of Service Level Agreements in Attachment A.

Escalation Procedures

- i. At the written request of either Party, the Parties will attempt to resolve any dispute arising under or relating to the Contract through the informal means described in Contract Section 11.F. The Parties agree to work together in good faith to resolve any matters relating to the Contract internally by working through issues with the Parties' respective project manager, then escalating issues to Supplier's Virginia Account Executive, the DMAS Director of Information Management Division & DMAS Director of Project Management Office. Each Party will furnish to each other all non-privileged information with respect to the dispute that the Parties believe to be appropriate and germane.
- ii. In the event the issue cannot be resolved within a reasonable time by the Supplier's Virginia Account Executive and the DMAS Director of Information Management Division & DMAS Director of Project Management Office, the issue shall be escalated to Supplier's Vice President and the DMAS Deputy Director of Finance, or other senior management representatives who do not devote substantially all of his or her time to performance under the Contract (collectively the "Dispute Representatives"). The Dispute Representatives will negotiate in an effort to resolve the dispute without the necessity of any formal proceeding.
- iii. Paragraphs 1 & 2 of this Section shall not be required in the event of any expirations of applicable filing limitations, equitable relief periods, or rights of either Party would be adversely affected by following the process contained above.