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**State of Wisconsin**

Department of Health Services

**CONTRACT FOR SERVICES  
BETWEEN  
THE DEPARTMENT OF HEALTH SERVICES  
AND  
DELOITTE CONSULTING LLP**

This Contract is entered into as of January 1, 2011 (the "Effective Date") by and between the State of Wisconsin as represented by the **Department of Health Services** (DHS), whose principal business address is One West Wilson Street, PO Box 309, Madison, WI 53707-0309, herein referred to as *the State*, and Deloitte Consulting LLP, a limited liability partnership registered under the laws of the State of Delaware, with a business address at 433 West Washington Ave., Madison, Wisconsin 53703, hereinafter referred to as *the Contractor*.

Unless otherwise agreed to by the parties, the terms and conditions of the Contract shall remain in full force and effect throughout any and all renewal periods.

WHEREAS, the State wishes to purchase services from the Contractor as it is authorized to do so by Wisconsin law; and

WHEREAS, the services to be purchased include the maintenance, operation, modification and enhancement of the State's Client Assistance for Re-employment and Economic Support (CARES) and the development, maintenance, operation and enhancement of an automated system to support an American Health Benefit Exchange (Exchange) in Wisconsin; and,

WHEREAS, the Contractor is engaged in furnishing the desired services; and,

WHEREAS, the services the Contractor provides will benefit the State except that the services related to the development of the Exchange will be of value to the State only if the automated system will be permitted to operate by the Secretary of the U.S. Department of Health and Human Services pursuant to the Patient Protection and Affordable Care Act (P.L. No. 111-148).

NOW THEREFORE, in consideration of the mutual undertakings and agreements herein set forth and which the Parties hereby acknowledge constitute good and valuable consideration sufficient to establish this Contract as a binding legal obligation under applicable law, the Parties hereby agree as follows:

**I. DEFINITIONS**

Unless otherwise defined herein, the definition of any term requiring such can be found in Exhibit C.

**Contract:** This Contract consists of this base contract, its exhibits, its attachments, the RFP and Deloitte Consulting's Proposal, each as revised herein, and constitutes the entire agreement between the parties with respect to this engagement, supersedes all other oral and written representations, understandings or agreements relating to this engagement.

**Days:** Calendar days, unless otherwise noted.

**RFP:** The Request for Proposal and all Attachments thereto, as issued by the State under the title of RFP #1681 DHCAA-BC and clarified and amended by Amendments I, II, and III thereto, including the Questions and Answers submitted to the State in reference to the RFP #1681 DHCAA-BC.

## **II. FUNCTIONS AND DUTIES OF THE PARTIES**

### **A. Copyright; License**

All right, title, and interest in all Deliverables (as such term is defined in Exhibit C) is assigned in accordance with **Section 3 of Exhibit C**.

The federal government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for federal government purposes, the copyright in any Deliverables (the definition of which includes software or modifications thereof and associated documentation designed, developed or installed with federal financial participation as set forth under 7 CFR 277.18(1) and 45 C.F.R. 95.617 ) developed under a grant, sub-grant, or contract under a grant or sub-grant or any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.

### **B. Compliance with Applicable Laws and Policies**

#### **1. General**

The Contractor and its subcontractors performing Services shall comply with all applicable federal and state laws that are in effect during the term of this Contract that are applicable to them in the performance of Services, with particular emphasis on the confidentiality provisions of federal food stamp law and federal and state Medicaid and other public benefits laws as well as the requirements for mechanized claims processing and information retrieval systems in Subpart C of 42 CFR Part 433. In addition, the Contractor shall comply with the federal regulations implementing the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 45 CFR, Parts 160 and 164, to the extent those regulations apply to the Contractor and the Services the Contractor provides under this Contract as set forth in the Business Associate Agreement attached hereto as Attachment I.

Contractor shall be entitled to invoke the change control process agreed to by the parties to address any new or modified federal or state laws (effective after January 1, 2011) which affect the Contractor's performance of Services hereunder.

## 2. Drug-Free Workplace

The Contractor will provide a drug-free workplace, in accordance with the Drug-Free Workplace Act of 1988 and implemented in 45 CFR Part 76 Subpart F for grantees, as defined in 45 CFR Part 76, Section 76.606 and 76.610. It is a fact that employees who use drugs have less productivity, a lower quality of work, and a higher absenteeism, and are more likely to misappropriate funds or services. From this perspective, the drug abuser may endanger other employees, the public at large, or themselves. Damage to property, whether owned by this entity or not, could result from drug abuse on the job. All these actions might undermine public confidence in the services this entity provides. Therefore, in order to remain a responsible source for government contracts, the following guidelines have been adopted:

- a) The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the work place.
- b) Violators may be terminated or requested to seek counseling from an approved rehabilitation service.
- c) Employees must notify their employer of any conviction of a criminal drug statute no later than five (5) days after such conviction.
- d) Although alcohol is not a controlled substance, it is nonetheless a drug. It is the policy of the Wisconsin Department of Health Services and Department of Children and Families that abuse of this drug will also not be tolerated in the workplace.
- e) Contractors of federal agencies are required to certify that they will provide drug-free workplaces for their employees.

Transactions subject to the suspension/debarment rules (covered transactions) include grants, sub-grants, cooperative agreements, and prime contracts under such awards. Subcontracts are not included. Also, the dollar threshold for covered procurement contracts is \$25,000. Contracts for Federally required audit services are covered regardless of dollar amount.

3. Affirmative Action Plan (AA) and Civil Rights Compliance (CRC)

All recipients of federal and/or state funding to administer programs, services and activities through the Wisconsin Department of Health Services must comply with the DHS's CRC and AA Plan requirements. Information about these requirements can be found at <http://dhs.wisconsin.gov/civilrights/Index.HTM>.

The Affirmative Action Plan is not part of the CRC Plan.

a) Affirmative Action Plan

- i. For agreements where the Provider has twenty-five (25) employees or more and a contract value of \$25,000 or more annually, the Contractor shall complete the AA plan. The Contractor with an annual work force of less than twenty-five (25) employees or a contract value of less than \$25,000 annually may be exempt from submitting the AA Plan.
- ii. The AA Plan is written in detail and explains the Provider's program. To obtain instructions regarding the AA Plan requirements go to:  
<http://vendornet.state.wi.us/vendornet/contract/contcom.asp>
- iii. The Contractor must file its AA Plan within fifteen (15) calendar days after award of the contract. The Plan must be submitted to:

Department of Health Services  
Division of Enterprise Services  
Bureau of Intergovernmental & Contract  
Management (BIRCM)  
Karen Koehn  
1 W. Wilson Street, Room 618  
P.O. Box 7850  
Madison, WI 53707  
Telephone: 608-266-7075  
[Karen.Koehn@WI.gov](mailto:Karen.Koehn@WI.gov)

Compliance with the requirements of the AA Plan will be monitored by the DHS Office of Affirmative Action and Civil Rights Compliance.

b) Civil Rights Compliance (CRC) Plan

Providers receiving federal and/or state funding to administer programs, services and activities through DHS must file a Civil

Rights Compliance Letter of Assurance (CRC LOA) for the compliance period of 2010-2013 regardless of the number of employees and the amount of funding received. All Providers with twenty-five (25) or more employees AND who receive contracts in excess of \$25,000 in annual value must complete a Civil Rights Compliance (CRC) Plan; however, submission of the CRC Plan is not required. The CRC Plan is to be kept on file and made available upon written request to any representative of the Department of Health Services. Specific guidance concerning requirements for the CRC Plan can be found at <http://dhs.wisconsin.gov/civilrights/Index.HTM>.

For technical assistance on all aspects of the Civil Rights Compliance, the Provider is to contact the Department's AA/CRC Office at:

Department of Health Services  
1 W. Wilson Street, Room 555  
P.O. Box 7850  
Madison, WI 53707  
(608) 266-9372 (voice)  
(888) 701-1251 TTY

Contractors subcontracting federal or state funding to other entities must obtain a CRC LOA from their subcontractors. The CRC LOA must be kept on file and produced upon request. Subcontractors with twenty-five (25) or more employees AND who receive over \$25,000 in annual contract funding must complete the CRC Plan. The CRC Plan is to be kept on file and produced upon request by the DHS AA/CRC Office, a representative of the DHS.

- c) Contractor agrees to not discriminate in the provision of services or benefits on the basis of age, color, disability, national origin, race, religion or sex/gender. This policy covers enrollment, access to services, facilities, and treatment for all programs and activities. All employees of the Contractor are expected to support goals and programmatic activities relating to nondiscrimination in service delivery.
- d) Contractor agrees to not exclude qualified persons from employment or otherwise subject them to discrimination in employment in any manner or term or condition of employment on the basis of age (over 40), arrest record, conviction record, color, creed/religion, disability, genetic testing, honesty testing, marital status, military service, pregnancy or childbirth, race/ethnicity, national origin or ancestry, sex, or sexual orientation, use of legal

products during non-work hours outside of employer's premises, except as otherwise authorized by applicable statutes. All Contractor employees are expected to support goals and programmatic activities to non-discrimination and non-retaliation in employment.

- e) Contractor agrees to comply with all the requirements in the CRC Plan and agrees that their subcontractors shall comply with the CRC Plan during the term of the Contract. Specific guidance about the requirements for the CRC Plan can be found at: <http://dhs.wisconsin.gov/civilrights/Index.HTM>.

The Contractor agrees to cooperate with the DHS in developing and implementing corrective action plans that result from complaint investigations.

#### 4. Anti-Lobbying Act

The Anti-Lobbying Act prohibits the recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal government in connection with a specific contract, grant, or loan. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the applicant certifies that:

No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.

If any funds other than federal appropriated funds have been paid or will be paid by the Contractor to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions. The parties agree that this Standard Form – LLL is not applicable to Contractor.

The undersigned shall require that the language of this certification be

include in the award documents for all sub-awards at all tiers (including sub-grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

5. Clean Air Act

The Clean Air Act, Section 306 stipulates:

- a) No federal agency may enter into any contract with any person who is convicted of any offense under section 113(c) for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected. For convictions arising under section 113(c)(2), the condition giving rise to the conviction also shall be considered to include any substantive violation of this act associated with the violation of 113(c)(2). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person.
- b) The Administrator shall establish procedures to provide all federal agencies with the notification necessary for the purposes of Subsection (a).
- c) In order to implement the purposes and policy of this act to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after enactment of the Clean Air Amendments of 1970 cause to be issued an order (1) requiring each federal agency authorized to enter into contracts and each federal agency which is empowered to extend federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.
- d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption. The President shall annually report to the Congress on measures taken toward implementing the purpose and intent of this section, including but not limited to the progress and problems associated with implementation of this section. [42 U.S.C. 7606]

- e) The President shall annually report to the Congress on measures taken toward implementing the purpose and intent of this section, including but not limited to the progress and problems associated with implementation of this section. [42 U.S.C. 7606]

6. Clean Water Act

The Clean Water Act, Section 309 stipulates:

- a) No federal agency may enter into any contract with any person who has been convicted of any offense under Section 309(c) of this act for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.
- b) The Administrator shall establish procedures to provide all federal agencies with the notification necessary for the purposes of Subsection (a) of this Section.
- c) In order to implement the purposes and policy of this act to protect and enhance the quality of the nation's water, the President shall, not more than 180 days after the enactment of this act, cause to be issued an order:
  - i. Requiring each federal agency authorized to enter into contracts and each federal agency which is empowered to extend federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this act in such contracting or assistance activities, and
  - ii. Setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.
- d) The President may exempt any contract, loan, or grant from all or part of the provisions of this Section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.
- e) The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section,

including, but not limited to, the progress and problems associated with such compliance.

- f) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.

In paragraph (1), the term “commercial item” has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

## **D. Contract Management**

### **1. Records**

All time and invoice records, books and documents, including electronic storage media, relating to fees incurred under this Contract will be maintained to reflect the fees provided by the State to the Contractor under the Contract.

Contractor and its subcontractors performing Services hereunder, to the extent applicable, shall retain and safeguard all such aforementioned records as well as, to the extent required by applicable law or regulation, other books and records that directly pertain to the performance of Services for a period of three and one-half years following expiration or termination of this Contract.

At any time during the term of the Contract and for three and one-half years following the expiration or termination of the Contract, to the extent required by applicable law or regulation, the Contractor and/or its subcontractors performing Services hereunder shall permit authorized government personnel from either the United States Department of Health and Human Services (“DHHS”), United States Department of Agriculture (“USDA”), Comptroller General of the United States (“Comptroller General”), or the Wisconsin Department of Health Services, to have access, at reasonable times and upon prior written notice to Contractor and/or its applicable subcontractors, to any of the Contractor’s and/or its applicable subcontractors’ books, documents, electronic media, and records that directly pertain to the Services under this Contract (the “Records”). Access shall include the right to examine, audit, excerpt, transcribe or reproduce, any of the copies of the aforementioned material, at the State’s expense. If the information requested is in electronic format, Contractor and/or its applicable subcontractors will provide copies of the media as may be requested in writing by the State. Any Records available to the State, DHHS, the United States Department of Agriculture, or the

Comptroller General under this Section may be redacted by the Contractor and/or its applicable subcontractors to the extent necessary to protect its/their proprietary and confidential information and to avoid any invasion of personal privacy.

Notwithstanding the above, retention of such Records which are directly related to litigation or the settlement of claims between the Contractor and the State or between the Contractor and DHHS, United States Department of Agriculture, or the Comptroller General arising out of the performance of this Contract, or (2) costs and expenses of this Contract as to which exception has been taken by the State, the Center for Medicare and Medicaid Services (“CMS”), DHHS, USDA, Office of the Inspector General (“OIG”), Comptroller General or any of their authorized government personnel, to the extent such claims or exceptions arise during the term of the Contract or within the three and one-half years following expiration or termination of this Contract, shall continue at least until such appeals, litigation, claims, or exceptions have been disposed of.

2. Monitoring

The Contractor will provide reports, as reasonably requested by the State, including status and progress reports that will be used for monitoring progress or performance of the contractual Services.

3. Insurance

The Contractor shall maintain insurance in accordance with **Section 23 of the Standard Terms and Conditions of Exhibit B.**

4. Confidentiality

Confidential information shall be maintained confidential in accordance with **Section 8 of Exhibit C.**

5. Subcontractors

Subcontracting shall be in accordance with **Section 10 of Exhibit C.**

6. Staffing

Staffing shall be in accordance with **Section 8.11 of Exhibit A.**

7. Reports

The Contractor shall provide the State with written reports as mutually agreed upon by the parties. The reports shall be composed in a manner mutually agreed upon by the parties. All reports shall be provided in

electronic formats compatible with software applications in use by the State (i.e., MS WORD, EXCEL, etc) as well as in hard copy, as specified by the State. Where required, the Contractor shall provide supporting documents, as mutually agreed upon with the State, such as attachments for the report.

8. Travel

**Intentionally Omitted.**

**III. FINANCIAL MATTERS**

**A. Costs and Payments**

Costs and payments shall be in accordance with **Section 7 of the Proposal.**

**B. Taxes**

The Contractor will be responsible for payment of taxes, if any, on the professional fees received under this Contract and any funds received as reimbursement by the State for facilities costs, which will be identified under the Contractor's actual tax identification number(s).

**C. Overpayments**

If an inspection correctly reveals that Contractor collected more from the State than it was entitled to collect under this Contract and such finding is not disputed by Contractor, the Contractor will return to the State any such overpayments disbursed to the Contractor by the State within 40 days after such determination or shall offset the overpayment in the following month's invoice. If any inspection correctly reveals that Contractor collected less from State than it was entitled to collect under this Contract and such finding is not disputed by the State, the State shall pay the Contractor for the amount of any undercharges within 40 days after such determination or the Contractor may add the amount of such undercharges to the following month's invoice.

If the Contractor or the State disputes either finding above, the disputing party may invoke Section X. H. of this Contract.

**IV. CONTRACTOR COMMITMENTS AND REPRESENTATIONS**

**A. Debarment**

As of the Effective Date and to the actual knowledge of the engagement principal, the Contractor represents that the Contractor, its affiliates performing Services as subcontractors hereunder and any of their respective principals performing Services hereunder are not and have not been debarred or suspended or otherwise

excluded from or ineligible for participation in federal assistance programs and have not been proposed for debarment, suspension or exclusion. The Contractor will not engage any subcontractor (other than its affiliates) to perform Services hereunder that, to the engagement principal's knowledge, as of the effective date of the agreement entered into by the Contractor and such subcontractor, is or has been debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs or has been proposed for debarment, suspension or exclusion.

To the extent the engagement principal becomes aware, the Contractor will promptly notify the State if during the term of the Contract, or the term of the subcontract, as applicable, it or any of the persons listed in the paragraph above are proposed for debarment, suspension or exclusion from participation in a federal assistance program.

**B. Political Activity and Lobbying**

The Contractor warrants and represents to the State that no federal or state funds, including but not limited to the funds received from the State under this Contract, have been paid or will be paid, either directly or indirectly, for any partisan political activity or to further the election or defeat of any candidate for public office.

**C. Conflict of Interest**

Conflict of Interest obligations shall be in accordance with **Section 3.0 of the Supplemental Standard Terms and Conditions for Procurement of Services of Exhibit B.**

**D. Infringement**

Indemnity obligations for infringement of third party intellectual property rights shall be in accordance with **Section 5(d) of Exhibit C.**

**V. CONTRACT PERFORMANCE; DELIVERABLES**

**A. Intentionally Omitted.**

**VI. DAMAGES AND INDEMNIFICATION**

**A. Liability; Indemnification**

Indemnity obligations shall be in accordance with **Section 5 of Exhibit C.**

**B. Damages**

Damages and limits thereon shall be in accordance with **Section 5 of Exhibit C.**

**VII. STOP AND CORRECT**

**A. Stop Services**

**Intentionally Omitted.**

**B. Correction**

**Intentionally Omitted.**

**VIII. CONTRACT AMENDMENT**

Any modification to or amendment of this Contract requires the mutual written consent of the parties.

**IX. EXPIRATION; TERMINATION; TURNOVER**

**A. Expiration**

Unless terminated sooner in accordance with Section IX(B) hereof, this Contract shall terminate on December 31, 2015. Thereafter, the parties may agree in writing to renew this Contract on an annual basis for up to three (3) years.

**B. Termination.**

1. The Contract may be terminated by mutual written agreement of the parties.
2. The Contract may be terminated by the State for the following reasons:
  - For cause, upon Contractor's material breach of any terms and/or conditions of this Contract or if Contractor has a delinquent Wisconsin tax liability that Contractor does not dispute, provided that the State shall give Contractor written notice specifying Contractor's breach or tax liability. In the event that 30 days after the receipt by Contractor of such notice, Contractor shall not have remedied said breach or paid such liability, the State may, by giving written notice to Contractor, terminate this Contract at the end of such 30-day period specified in the notice.

In particular, the paragraph immediately preceding applies to the following:

- If the Contractor is, as of the Effective Date, a federally debarred contractor or during the term of this Contract, becomes a federally debarred contractor;

- If as of the Effective Date, the Contractor is presently identified on the list of parties excluded from federal or state procurement and non-procurement contracts, or during the term of the Contract, is identified on the list of parties excluded from federal or state procurement and non-procurement contracts; or
- The Contractor materially breaches any of its confidentiality obligations hereunder.

The State may terminate this Contract for cause immediately but without providing an opportunity to cure if:

- Contractor's material breach of this Contract is incapable of being cured by Contractor; or,
- Contractor's material breach is the result of willful misconduct.

The State may terminate this Contract for convenience:

- If the State shall have reasonably and in good faith determined that termination would be in the best interest of the State, provided that State shall give Contractor no less than 90 days prior written notice. The State shall afford the Contractor reasonable opportunity to present arguments that termination is not in the best interest of the State. Termination by State pursuant to this Section IX(B) shall create an obligation upon State to reimburse Contractor the fees for contractual Services performed prior to the date of termination plus facilities costs for that period and any reasonable and necessary termination expenses.
- If required by a change in federal or state law or by court order to the extent said change necessitates termination; provided the State gives at least 20 days prior written notice.
- By the State, in whole or in part, whenever funding from State or federal sources is withdrawn, reduced, or limited. The State will not incur liability beyond payment for those Services provided through the date of termination of the Contract for lack of appropriation of funds. The State is the final authority as to the availability of funds and will provide as much notice of reduction in funds or termination under this provision to the Contractor as is reasonably possible, but shall in no event provide less than 20 days prior written notice. Notwithstanding the foregoing, any partial termination of this Contract shall entitle the Contractor to renegotiate staff level, staff mix, and the blended hourly rate (as defined in the RFP). Contractor shall have no obligation to perform Services for which funds are unavailable.

Immediately If:

-Contractor files a petition in bankruptcy, becomes insolvent, or otherwise takes an action to dissolve as a legal entity.

3. The Contract may be terminated by the Contractor for the following reasons:

- For cause, upon a material breach by the State of any term and/or condition of this Contract, provided that Contractor shall give the State written notice specifying State's breach and within 30 days of receipt of notice, the State shall not have remedied said breach, then Contractor may terminate the Contract.
- For convenience if written notice is delivered by the Contractor to the State not less than 90 days prior to the effective date of said termination.

The Contractor may terminate this Contract for cause but without providing an opportunity to cure in the event that the State's material breach of this Contract is incapable of being cured or in the event that the State's material breach is the result of willful misconduct.

Termination by Contractor under this Section shall impose on the State an obligation to reimburse Contractor the fees for the Services performed up to the date of termination and facilities costs for that period.

4. Except as otherwise set forth in this Contract or as otherwise agreed to by the parties, Contractor will continue providing the Services until the effective date of termination.

Upon termination, Contractor shall promptly provide completed Deliverables and well as incomplete Deliverables for which the State has paid. Deliverables that have not been completed shall be delivered to the State "AS IS", with no representations, warranties or other obligations of any kind.

**C. Turnover**

**Turnover/Transition shall be in accordance with Section 8.2 of Exhibit A.**

**X. MISCELLANEOUS PROVISIONS**

**A. Anti-Trust Violations**

The Contractor and the State recognize that overcharges resulting from antitrust violations are, in actual economic practice, usually borne by the State. Therefore, to the extent the Contractor purchases goods or services on the State's behalf under this Contract, the Contractor hereby assigns to the State any and all claims for such overcharges as to goods and services purchased in connection with this Contract, except as to overcharges not passed on to the State.

**B. Assignment and Acquisition**

Assignment shall be in accordance with **Section 10 of Exhibit C**. During the term of this Contract, the Contractor will notify the State of any merger or acquisition that the Contractor determines will materially adversely affect its ability to provide any of its duties and obligations under this Contract.

**C. Authority**

The Contractor has no authority to bind, obligate, or commit the State by any representation or promise without the prior written approval of the State. Likewise, the State has no authority to bind, obligate, or commit the Contractor by any representation or promise without the prior written approval of the Contractor.

**D. Authorization**

Both the Contractor and the State have full power and authority to enter into and perform their respective duties and obligations under this Contract, and the person signing this Contract on behalf of each party has been properly authorized and empowered to enter into this Contract and to bind each party to each and every one of the terms and conditions set forth herein.

**E. Binding Effect**

Each party agrees that it is bound by the terms of this Contract and this Contract shall be binding on each party's respective permitted successors and assigns.

**F. Choice of Law**

Choice of law shall be in accordance with **Section 15 of Exhibit C**.

**G. Conflicts Among Documents; Order of Precedence**

In the event of any conflict, ambiguity, or inconsistency among this base Contract, **Exhibit A**, **Exhibit B**, **Exhibit C**, Deloitte Consulting's response to the RFP, and the RFP, the priority for such contract documents shall be the following:

- (1) **Exhibit C**;

- (2) This base Contract (including the Attachment I-V);
- (3) **Exhibit B;**
- (4) **Exhibit A;**
- (5) Deloitte Consulting's Proposal which is incorporated herein by reference, except as modified by **Exhibit A** and except for Appendix F to the RFP which shall not apply to this Contract; and
- (6) The RFP, which is incorporated herein by reference, except as modified by **Section 18 of Exhibit C.**

A higher-order document will supersede a lower-order document to the extent necessary to resolve any inconsistencies. An inconsistency does not exist if a higher-order document is silent on a matter that is addressed in a lower-order document.

#### **H. Dispute Resolution Process**

In the event of any disputes, controversies, or differences arising out of this Contract ("Disputes"), the parties shall use diligent efforts to settle the Dispute. To this end, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties using the following escalation process. Disputes shall first be referred to Contractor's On-Site Project/Account Manager (as defined in the Proposal) and State's Contract Administrator. If they are unable to resolve the Dispute within 15 days of the Dispute being submitted, the dispute will be escalated to Contractor's Wisconsin Account Manager (as defined in the Proposal) and State's secretary of the Department of Health Services. If they are unable to resolve such Dispute within 15 additional days, both parties will have available to them all rights and remedies that exist under this Contract and applicable federal and state laws and regulations, including without limitation, the right to litigate the dispute in any court of competent jurisdiction, as well as any rights and remedies the parties have in equity.

Except as otherwise provided in this Contract, the existence of a dispute notwithstanding, both parties agree to continue without delay to carry out all of the respective duties and obligations under this Contract that are not affected by the dispute.

#### **I. Documentation**

**Intentionally omitted.**

#### **J. Entire Agreement and Acknowledgment of Understanding**

**Intentionally omitted.**

**K. Force Majeure**

The Contractor shall be excused from performance hereunder for any period that it is prevented from providing or arranging for, services and shall be excused for any delays arising out of causes beyond the reasonable control of the Contractor. Such causes may include, but are not restricted to, acts of God, fires, strikes by other than the Contractor's employees, and freight embargoes. In all cases, the failure to perform must be beyond the reasonable control of the Contractor.

**L. Headings**

The headings throughout this Contract are for reference purposes only, and the words contained therein will in no way be held to explain, modify, amplify or aid in the interpretation, construction, or meaning of the provisions of this Contract.

**M. Hiring of Employees**

Restrictions on hiring of employees shall be in accordance with **Section 12 of Exhibit C.**

**N. Independent Capacity of Contractor**

Independent capacity of the Contractor is addressed in **Section 8.0 of the Supplemental Standard Terms and Conditions of for Procurement of Services of Exhibit B.**

**O. Non-Waiver**

Any failure or delay by either party to exercise or partially exercise any right, power, or privilege under this Contract will not be deemed a waiver of any such right, power, or privilege under this Contract. Any waivers granted by either party for current breaches will not indicate a course of dealing with, or excusing, other or subsequent breaches.

**P. Notices**

Notices shall be given in accordance with **Section 14 of Exhibit C.**

**Q. Promotion of Minority Business**

The State is committed to the promotion of minority business in the State's purchasing program and therefore the Contractor will be encouraged to purchase services and supplies for performance under this Contract from minority businesses certified by the Wisconsin Department of Commerce, Bureau of

Minority Business Development. The Contractor shall submit a quarterly report of purchases of such supplies and services.

**R. Remedies**

Except as otherwise provided in this Contract, no remedy conferred by any of the specific provisions of this Contract is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given there under, now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies by either party shall not constitute a waiver of the right to pursue other available remedies.

**S. Right to Publish**

The Contractor will not refer to the State in advertisements or in publicity or promotional materials and will not permit published comments with respect to the Services where the State is identified without obtaining the State's prior review and approval unless the State has publicly referred to the Contractor and/or the Services.

Notwithstanding the foregoing, the State grants the Contractor the right to use its name as part of a general client list and as a specific citation within proposals.

**T. Severability**

Severability shall be in accordance with **Section 15 of Exhibit C**.

**U. Survival**

Survival shall be in accordance with **Section 9 of Exhibit C**.

**XI. CONDITIONS OF THE PARTIES OBLIGATIONS**

**A. Contingency**

**Intentionally omitted.**

**B. Lawful Powers**

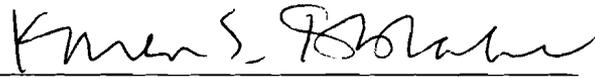
**Intentionally omitted.**

**C. Signatures**

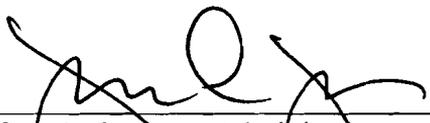
Intentionally omitted.

  
Contractor's Authorized Representative  
Name: JEFFREY BRADFELD  
Title: PRINCIPAL

Date 12/29/10

  
State's Authorized Representative:  
Name: Karen E. Timberlake  
Title: Secretary, DSAS

Date 12/30/10

  
State's Contract Administrator:  
Name: JAMES JONES  
Title: DEPUTY ADMINISTRATOR,  
DHCAA

Date 12/30/10

## BUSINESS ASSOCIATE AGREEMENT

This Agreement is made effective January 1, 2011 by and between the Wisconsin Department of Health Services ("Covered Entity") and Deloitte Consulting LLP ("Business Associate") (collectively the "Parties").

### 1. BACKGROUND

This Agreement is specific to those Services performed by the Business Associate on behalf of the Covered Entity in connection under the Underlying Contract when such Services (as such term is defined in the Underlying Contract) are covered by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) including all pertinent regulations (45 CFR Parts 160 and 164, Subparts A, C, and E) issued by the U.S. Department of Health and Human Services as either have been amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the "HITECH" Act), as Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5).

The Covered Entity and Business Associate agree to modify the Underlying Contract (the "Contract") to incorporate the terms of this Agreement and to comply with the requirements of HIPAA and HITECH addressing confidentiality, security and the transmission of Protected Health Information (as such term is defined below) created, used or maintained by the Business Associate during the performance of the Contract and after Contract termination as long as the Business Associate retains such Protected Health Information. The parties agree that any conflict between provisions of the Contract and the Agreement with respect to the subject matter hereof will be governed by the terms of the Agreement.

### 2. DEFINITIONS

**The following terms shall have the following meaning in this Agreement. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms specified in HIPAA or HITECH. Specific statutory or regulatory citations used in this Business Associate Agreement shall mean such citations as amended and in effect from time to time.**

- a. "Breach" shall have the same meaning as the term "breach" in 45 CFR § 164.402 and shall include unauthorized acquisition, access, use or disclosure of Protected Health Information ("PHI") that compromises the security or privacy of such information.
- b. "Corrective Action Plan" means a plan mutually agreed upon by the Covered Entity to the Business Associate for the Business Associate to follow in the event of any actual use or disclosure of any PHI that is not specifically authorized by this Agreement, or in the event that there is a reasonable likelihood that there was a use or disclosure of any such PHI by the Business Associate not specifically authorized by Agreement.
- c. "Disclosure" means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.
- d. "Electronic Health Record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.
- e. "Security Incident" means any attempted or successful unauthorized access, modification, or destruction of PHI, including electronic PHI, or interference with the operation of any information system that contains PHI.

- f. "Individual" means the person who is the subject of Protected Health Information or the personal representative of an Individual as defined and provided for under applicable provisions of HIPAA.
- g. "Protected Health Information (PHI)" means health information, including demographic information collected from an individual, created, received, maintained, or transmitted in any form or media by the Business Associate, on behalf of the Covered Entity, pursuant to Business Associate's performance of Services (as such term is defined in the Contract), where such information relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the payment for the provision of health care to an individual, that identifies the individual or provides a reasonable basis to believe that it can be used to identify an individual.
- h. "Unsecured Protected Health Information" means Protected Health Information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of technology or methodology specified by the HHS Secretary in guidance as defined in the §13402(h) of the HITECH ACT and 45 CFR § 164.402.
- i. Unless otherwise defined in this Agreement, terms used herein shall have the same meaning as those terms have in HIPAA and HITECH.

### **3. RESPONSIBILITIES OF BUSINESS ASSOCIATE**

- a. Business Associate shall not use or disclose any PHI except as permitted or required by the Contract or this Agreement, as permitted or required by law, or as otherwise authorized in writing by the Covered Entity, provided that such use or disclosure would not violate the HIPAA regulations if done by the Covered Entity.
- b. Business Associate shall only use and disclose PHI if such use or disclosure complies with each applicable requirement of 45 CFR §164.504(e) and this Agreement.
- c. Business Associate shall be directly responsible for full compliance with relevant requirements of Subtitle D of Title XIII, Health Information Technology, of the HITECH Act that apply to privacy to the same extent as the Covered Entity. Business Associate shall comply with Section 13405(b) of the HITECH Act when using, disclosing, or requesting PHI in relation to this Agreement by limiting disclosures as required by HIPAA.
- d. Business Associate shall refrain from receiving any remuneration in exchange for any Individual's PHI unless (1) that exchange is pursuant to a valid authorization that includes a specification of whether PHI can be further exchanged for remuneration by the entity receiving PHI of that Individual, or (2) satisfies one of the exceptions enumerated in Section 13405(e)(2) of the HITECH Act or HIPAA regulations.
- e. Business Associate shall refrain from marketing activities that would violate HIPAA, specifically Section 13406 of the HITECH Act.

### **4. SAFEGUARDING AND SECURITY OF PROTECTED HEALTH INFORMATION**

- a. Business Associate shall develop, implement, maintain, and use reasonable and appropriate administrative, technical, and physical safeguards that: (1) reasonably and appropriately safeguard the confidentiality, integrity, and availability of PHI, in any form of media, that it creates, receives, maintains, uses or transmits on behalf of the Covered Entity; and (2) to prevent use and disclosure of PHI other than as provided for by this Agreement.
- b. Business Associate shall cooperate in good faith in response to any reasonable requests from the Covered Entity to discuss Business Associate's safeguards.

**5. REPORTING OF SECURITY INCIDENTS AND BREACHES TO COVERED ENTITY BY BUSINESS ASSOCIATE**

The Business Associate agrees to inform the Covered Entity of any Security Incident or Breach covered by this section, including an Security Incident and Breaches reported to Business Associate by subcontractors or agents.

- a. **Discovery of Security Incident or Breach.** The Business Associate must inform the Covered Entity by telephone call plus email or fax within one business day of (i) becoming aware of any Security Incident affecting electronic PHI, and (ii) the Discovery of a Breach of Unsecured Protected Health Information.
  - (i) The Breach shall be treated as “Discovered” as of the first day on which the Breach is known to the Business Associate, or, by exercising reasonable diligence would have been known to the Business Associate.
  - (ii) Notification shall be provided to one of the contact persons as listed in section d.
  - (iii) Notification shall occur within one business day following Discovery of the Breach.
  
- b. **Mitigation.** The Business Associate shall take prompt steps to mitigate any harmful effects of the unauthorized use or disclosure,. The Business Associate shall reasonably cooperate with the Covered Entity’s efforts to seek appropriate injunctive relief or otherwise prevent or curtail such threatened or actual breach, or to recover its PHI including complying with a reasonable Corrective Action Plan.
  
- c. **Investigation of Breach.** The Business Associate shall promptly investigate the Breach and report in writing within fifteen days of Discovery to the extent known to one of the contacts as listed in section 5d with the following information:
  - (i) Each Individual whose Unsecured PHI has been or is reasonably to have been accessed, acquired, or disclosed during the Breach,
  - (ii) A description of the types of Unsecured PHI that were involved in the Breach(such as full name, social security number, date of birth home address, account number, and etc.).
  - (iii) A description of what happened, including the date of the Breach, date of discovery of the Breach of Unsecured PHI if known,
  - (iv) A brief description of what the Business Associate is doing to investigate the Breach, to mitigate harm and to protect against further Breaches,
  - (v) The actions the Business Associate has undertaken or will undertake to mitigate any harmful effect of the occurrence
  - (vi) A corrective action plan that includes the steps the Business Associate has taken or shall take to prevent future similar incidents, if any.
  
- d. **Covered Entity Contact Information.** To direct communications to above referenced Covered Entity’s staff, the Business Associate shall initiate contact as indicated herein. The Covered Entity reserves the right to make changes to the contact information by giving written notice to the Business Associate.

|  |   |   |
|--|---|---|
| Covered Entity Program Manager – James Jones, 608-266-8922 | DHS Privacy Officer<br>c/o Office of Legal Counsel<br>Department of Health Services<br>1 W. Wilson St.<br>Madison, WI 53707<br>608-266-5484 | DHS Security Officer<br>Department of Health Services<br>1 W. Wilson St.<br>Madison, WI 53707<br>608-261-8310 |
|--|---|---|

**6. INTENTIONALLY OMITTED**

**7. USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION BY SUBCONTRACTORS AND AGENTS OF THE BUSINESS ASSOCIATE**

The Business Associate agrees to ensure that any agents or subcontractors, to whom the Business Associate provides PHI received from, or created or received by the Business Associate on behalf of the Covered Entity, agrees to the same restrictions and conditions in writing applicable to the Business Associate in this Agreement. The Business Associate shall ensure that any agent, including a subcontractor to whom a Business Associate provides such PHI agrees to implement reasonable and appropriate safeguards to protect such PHI; and report to the Covered Entity any Security Incident of which it becomes aware.

**8. COMPLIANCE WITH ELECTRONIC TRANSACTIONS AND CODE SET STANDARDS**

If the Business Associate conducts any Standard Transaction for, or on behalf of, a Covered Entity in connection with the performance of Services, the Business Associate shall comply, and shall require any subcontractor or agent conducting such Standard Transaction to comply, with each applicable requirement of Title 45, Part 162 of the Code of Federal Regulation. If the Business Associate conducts any Standard Transactions, or on behalf of, a Covered Entity, in connection with the performance of Services, the Business Associate shall not enter into any Agreement in connection with the conduct of Standard Transactions for or on behalf of Covered Entity that:

- a. Changes the definition, Health Information condition, or use of a Health Information element or segment in a Standard;
- b. Adds any Health Information elements or segments to the maximum defined Health Information Set;
- c. Uses any code or Health Information elements that are either marked "not used" in the Standard's Implementation Specification(s) or are not in the Standard's Implementation Specifications(s);
- d. Changes the meaning or intent of the Standard's Implementations Specification(s).

**9. ACCESS TO PROTECTED HEALTH INFORMATION**

At the direction of the Covered Entity and as required by the applicable provisions of HIPAA and HITECH, the Business Associate agrees to provide access in accordance to 45 CFR 164.524 and Section 13405(e) of the HITECH Act to any PHI held by the Business Associate, which Covered Entity has determined to be part of Covered Entity's Designated Record Set, in the reasonable time and manner designated by the Covered Entity. This access will be provided to Covered Entity or, as directed by Covered Entity, to an Individual, in order to meet requirements under the Privacy Rule and HITECH.

**10. AMENDMENT OR CORRECTION TO PROTECTED HEALTH INFORMATION**

At the direction of the Covered Entity and as required by the applicable provisions of HIPAA and HITECH, the Business Associate agrees to amend or correct PHI held by the Business Associate which the Covered Entity has determined is part of the Covered Entity's Designated Record Set, in the reasonable time and manner designated by the Covered Entity in accordance with 45 CFR 164.526.

**11. DOCUMENTATION OF DISCLOSURES OF PROTECTED HEALTH INFORMATION BY THE BUSINESS ASSOCIATE**

The Business Associate agrees to document and make available to the Covered Entity or (at the direction of the Covered Entity and as required by the applicable provisions of HIPAA and HITECH) to an Individual such disclosures of PHI to respond to a proper request by the Individual for an accounting of disclosures of PHI, in accordance with 45 CFR 164.528 and §13405(c) of the HITECH Act.

**12. INTERNAL PRACTICES**

The Business Associate agrees to make its internal practices, books, and records relating to the use and disclosure of PHI available to the federal Secretary of Health and Human Services (HHS) in a time and

manner determined by the HHS Secretary or designee, for purposes of determining compliance with the requirements of HIPAA. Further, to the extent permitted by applicable law, the Business Associate agrees to promptly notify the Covered Entity of communications with HHS regarding PHI and will provide the Covered Entity with copies of any PHI or other information the Business Associate has made available to HHS under this provision.

### **13. TERM AND TERMINATION OF AGREEMENT**

- a. The Business Associate agrees that if in good faith the Covered Entity determines that the Business Associate has materially breached any of its obligations under this Agreement, the Covered Entity may:
  - (i) Require the Business Associate within a 30 day period to cure the breach or end the violation;
  - (ii) Terminate this Agreement if the Business Associate does not cure the breach or end the violation within such time specified by the Covered Entity;
  - (iii) Immediately terminate this Agreement if the Business Associate has materially breached a term of this Agreement and cure is not possible; or
  - (iv) If neither cure nor termination is feasible, report the violation to the Secretary of the U.S. Department of Health and Human Services.
- b. Before exercising either (i) or (ii), the Covered Entity will provide written notice of preliminary determination to the Business Associate describing the violation and the action the Covered Entity intends to take.

### **14. RETURN OR DESTRUCTION OF PROTECTED HEALTH INFORMATION**

Upon termination, cancellation, expiration or other conclusion of this Agreement, the Business Associate will:

- a. Return to the Covered Entity or, if return is not feasible, destroy all PHI and any compilation of PHI in any media or form. The Business Associate agrees to ensure that this provision also applies to PHI of the Covered Entity in possession of subcontractors and agents of the Business Associate. The Business Associate agrees that any original record or copy of PHI in any media is included in and covered by this provision, as well as all original or copies of PHI provided to subcontractors or agents of the Business Associate. The Business Associate agrees to complete the return or destruction as promptly as possible, but not more than thirty (30) business days after the conclusion of this Agreement. If applicable, the Business Associate will provide written documentation evidencing that return or destruction of all PHI has been completed.
- b. If the Business Associate destroys PHI, it shall be done with the use of technology or methodology that renders the PHI unusable, unreadable, or undecipherable to unauthorized individuals. Acceptable methods for destroying PHI include:
  - (i) Paper, film, or other hard copy media: shredded or destroyed in order that PHI cannot be read or reconstructed; and
  - (ii) Electronic media: cleared, purged or destroyed consistent with generally accepted industry standards.Redaction is specifically excluded as a method of destruction of PHI, unless the information is properly redacted so as to be fully de-identified.
- c. If the Business Associate believes that the return or destruction of PHI is not feasible, the Business Associate shall provide written notification of the conditions that make return or destruction not feasible. If the Business Associate and Covered Entity agree that return or destruction of PHI is not feasible, the Business Associate shall extend the protections of this Agreement to PHI and prohibit further uses or disclosures of the PHI of the Covered Entity without the express written authorization of the Covered Entity. Subsequent use or disclosure of

any PHI subject to this provision will be limited to the use or disclosure that makes return or destruction not feasible.

**15. COMPLIANCE WITH STATE LAW**

- a. The Business Associate acknowledges that its use and disclosure of PHI received from the Covered Entity may be subject to applicable state confidentiality laws. Business Associate shall comply with such more restrictive protection requirements between applicable state and federal law for the protection of such PHI by Business Associate.

**16. MISCELLANEOUS PROVISIONS**

- a. Reimbursement of Costs Associated with Breach. In the event of a Breach caused by Business Associate's breach of the terms of this Agreement, Business Associate shall reimburse the Covered Entity for its reasonable and direct out-of-pocket costs of (i) its notification of affected individuals who are required by law to receive such notification, and (ii) credit monitoring (including identity theft insurance for affected individuals) for no more than a period of one year from the date an individual enrolls in credit monitoring if such PHI includes information that makes identity theft possible (e.g., social security numbers with other identifiers, but not patient treatment records alone).
- b. Automatic Amendment. This Agreement shall promptly negotiate in good faith to amend this Agreement to incorporate any change or modification of applicable state or federal law as of the effective date of the change or modification. The Business Associate agrees to maintain compliance with all changes or modifications to applicable state or federal law regarding PHI that is applicable to Business Associate in its performance of the Services.
- c. Interpretation of Terms or Conditions of Agreement. Any ambiguity in this Agreement shall be construed and resolved in favor of a meaning that permits the Covered Entity and Business Associate to comply with applicable state and federal law.
- d. Survival. All terms of this Agreement that by their language or nature would survive the termination or other conclusion of this Agreement shall survive.

**17. RESPONSIBILITIES OF COVERED ENTITY**

Covered Entity agrees that it will: (i) not make any disclosure of PHI to Business Associate if such disclosure would violate HIPAA, HITECH or any applicable federal or state law or regulation; and (ii) not request Business Associate to use or make any disclosure of PHI in any manner that would not be permissible under HIPAA, HITECH or any applicable federal or state law or regulation if such use or disclosure were done by Covered Entity.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed by their respective representatives.

**COVERED ENTITY**

By: Karen Timberlake  
Title: SECRETARY, DHS  
Date: 12/30/10

**BUSINESS ASSOCIATE**

By: JEFFREY BRAUFIELD  
Title: PRINCIPAL  
Date: 12/29/2010



DHS-1887-CP  
Contract/Bid/Bulletin Number

**DEFINITIONS:**

**Lower Tier Transaction:** Any procurement contract for goods or services between a participant and DHS, State of Wisconsin, regardless of type expected to equal or exceed the federal procurement small purchase threshold under a primary covered transaction.

**Primary Covered Transaction:** Any non-procurement transaction between DHS, State of Wisconsin and a federal agency including: grants, cooperative agreements, scholarships, fellowships, contracts of assistance, loans, loan guarantees, subsidies, insurance, payments for specified use, donation agreements and any other non-procurement transactions.

rev. 2/95

## INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective lower tier participant providing the certification as set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The term "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal, proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person in which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, declared ineligible, or voluntarily excluded from participation in the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to check the non-procurement list.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
  
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**U.S. DEPARTMENT OF AGRICULTURE**

**CERTIFICATION REGARDING  
DRUG-FREE WORKPLACE REQUIREMENTS (GRANTS)  
ALTERNATIVE I - FOR GRANTEEES OTHER THAN INDIVIDUALS**

**This certification is required by the regulations implementing Section 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D: 41 U.S.C. 701 et seq.), 7 CFR Part 3017. Subpart F, Section 3017.600, Purpose. The January 13, 1989, regulations were amended and published as Part II of the May 25, 1990 Federal Register (pages 21681-21691). Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the grant.**

**(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON  
PAGE 3)**

**As the term is used in Sections A(d) and A(e) hereof, "employee" of Contractor shall only mean those employees providing Services under the Contract.**

**Alternative I**

- A. The grantee certifies that it will or will continue to provide a drug-free workplace by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - (b) Establishing an ongoing drug-free awareness program to inform employees about –
    - (1) The dangers of drug abuse in the workplace;
    - (2) The grantee's policy of maintaining a drug-free workplace;
    - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
    - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
  - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
  - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will -

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted –

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or, local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, State, zip code)

DELOETTE CONSULTING  
433 WEST WASHINGTON AVE  
MADISON, WI 53703

Check If there are workplaces on file that are not identified here.

DELOETTE CONSULTING LLP  
Organization Name Awarded Number or Project Name

JEFFREY BRADFELD, PRINCIPAL  
Name and Title of Authorized Representative

Jeffrey Bradfield 12/29/2010  
Signature Signature Date

## INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this form, the grantee is providing the certification set out on pages 1 and 2.
2. The certification set out on pages 1 and 2 is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
4. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).
5. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s). If it previously identified the workplaces in question (see paragraph three).
6. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or States criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) all "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g. volunteers, even if used to meet a matching requirement; consultants or independent contractors not

on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces)

U.S. DEPARTMENT OF AGRICULTURE

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY  
AND VOLUNTARY EXCLUSION – LOWER TIER TRANSACTIONS**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, *Federal Register* (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

*(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE.)*

- (1) The prospective lower tier participant certifies, by submission of this Contract, that, as of the Effective Date, to the actual knowledge of the engagement principal, neither it nor its principals performing Services hereunder is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this Contract.

DELOITTE CONSULTING LLP  
Organization Name PR/Award Number or Project

JEFFREY BRADFELD, PRINCIPAL  
Name(s) and Title(s) of Authorized Representative(s)

Jeffrey Bradfield      12/29/2010  
Signature(s)      Date

## INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**U.S. DEPARTMENT OF AGRICULTURE**  
**CERTIFICATION REGARDING LOBBYING – CONTRACTS,**  
**GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

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

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the 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.

(2) 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.

(3) 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.

DELBETTE CONSULTING LLP  
Organization Name PR/Award Number or Project

JEFFREY BRADFIELD, PRINCIPAL  
Name(s) and Title(s) of Authorized Representative(s)

Jeffrey Bradfield      12/29/2010  
Signature(s)      Date



## EXHIBIT A

### AMENDMENTS TO Wisconsin Department of Health Services Request for Proposal, RFP #1681DHCAA-BC dated May 13, 2010 and Amendments I, II, and III thereto (the "RFP") and Withhold Provision

1. **The third paragraph of Section 4.7 of the RFP is amended and restated in its entirety as follows:**

Note: Section 4.7 American Health Benefit Exchange ("AHBE") will be scored as part of the Technical Proposal but proposers should not include costs related to this activity as part of the cost proposal in Appendix A. Once the federal requirements for the Exchange are finalized, the State will negotiate the price related to the development and operation of the AHBE.

2. **Section 5.0 (Technical Requirements) of the RFP is amended and restated in its entirety as follows:**

#### **5.0 TECHNICAL REQUIREMENTS**

##### **5.1 Required Business Systems**

The technical requirements listed in this section apply to the CARES systems defined in RFP Section 1.2.4, including the American Health Benefit Exchange when established and operating ("System(s)").

##### **5.1.1 General Requirements**

The Contractor is responsible for concurrently managing the work described in Section 5 for continued CARES Systems maintenance and enhancement employed in the operation of programs under the purview of the Department of Health Services ("DHS" or the "State"), Division of Health Care Access and Accountability ("DHCAA") and in other areas within DHS and the Department of Children and Families. Activities include the maintenance, operation, modification and enhancement of the Wisconsin Client Assistance for Re-employment & Economic Support (CARES) System; the development, operation, maintenance and enhancement of an automated system that would support the American Health Benefit Exchange ("AHBE") in Wisconsin; and other activities agreed to by the parties. The required services are divided into five (5) categories as follows:

- 1) Production Maintenance.
- 2) Software Changes and Enhancements (For purpose of Section 5.1.3, "software" will mean a Deliverable (as such term is defined in Exhibit C) that is custom code created to support the System unless the context otherwise requires.)
- 3) Facilities and Equipment.
- 4) Management and Reporting
- 5) Project Management

With respect to performance and delivery of all services addressed in Section 5, the Contractor will be required to conform to all State standards identified in Section 1.2.5 Standards and Procedures and in all procurement library documents referred to in the RFP except as modified in this Exhibit A. Notwithstanding Section 1.2.5, the Contractor will be required to conform to such standards and documents, and any amendments or additions thereto, only to the extent such standards and documents are mutually agreed upon by the parties in a separate writing. Once such standards and documents are mutually agreed upon in accordance with the foregoing, no waiver of standards will be allowed unless authorized in writing by the State.

## **5.1.2 Production Maintenance**

This section addresses the services the Contractor must provide to keep State Systems operating on an ongoing basis and to implement certain routine maintenance activities.

### **5.1.2.1 General Production Operations**

Each of the following operations must be carried out by the Contractor.

**5.1.2.1.1** Support operation and maintenance of batch and online System as mutually agreed to by the parties in writing. Assist the State in the maintenance and operation of computer programs and data files. Assist the State to operate the Systems in the technical environment described in Section 1.2.6 Technical Environment.

**5.1.2.1.2** Assist the State to confirm online availability in accordance with Section 6 of this Exhibit A below.

**5.1.2.1.3** The Contractor must assist the State to confirm that online processing begins at the scheduled time. The Contractor must notify designated State personnel, in advance, if the System will not be available at the scheduled time. For example, CARES/CWW production is available to System users from 6:30 a.m. to 7:00 p.m. Monday, Tuesday and Thursday; 6:30 a.m. to 9:00 p.m. Wednesday; 6:30 a.m. to 5:00 p.m. Friday; and 6:30 a.m. to 3:00 p.m. the majority of Saturdays. CARES/CWW availability may be extended to 9:00 p.m. on weekdays and 6:00 p.m. on Saturdays at the direction of the State.

**5.1.2.1.4** Support batch cycle monitoring for all environments for up to three (3) shifts daily (including days, nights and weekends when jobs are scheduled) and online monitoring for all hours of online availability. Support special requests for running batch cycles in all environments within two (2) business days of the request, given the available time in the batch window.

**5.1.2.1.5** Ensure that key personnel that are designated as Key Personnel in Section 4.3.2.1 of the Proposal (Chart of Key Positions) are accessible to State personnel Monday through Friday, 7:45 a.m. to 5:00 p.m. Additionally, ensure that these personnel are also available with reasonable prior notice after 5:00 p.m., Monday through Friday, and on weekends. Contacts must be accessible during these hours and any extended hours as requested by the State.

**5.1.2.1.6** The Contractor is responsible for assisting the State to support completion of all scheduled nightly batch cycles (i.e., daily, weekly, monthly, quarterly, annually, and as scheduled) before 6:00 a.m. each morning. The Contractor will communicate with the State regarding problems according to established procedures.

**5.1.2.1.7** Correct critical online System errors that are online errors, fatals and abends, and the code problems causing such problems. The Contractor shall use diligent efforts to resolve critical online System errors, fatals and abends within 24 hours from the time the Contractor is notified or is aware that the problem occurred unless a delay has been approved by the State. When possible, critical online System errors that are batch abends critical for processing must be resolved and the batch cycles must be completed before the time the System is scheduled to be available on-line. Critical online System errors are errors that result in the System being completely inoperable or a substantial number of end users of the System being unable to use the System (e.g., an error preventing a substantial number of end users from being able to login to the System, an error causing a substantial number of end users from performing core business functions such as determining eligibility and issuing benefits).

**5.1.2.1.8** Assist the State to support operation and maintenance of all environments (PC, Development, System Test, User Acceptance Test, Production, and Training). Assist the State to confirm that Systems changes are made to support operating system or software upgrades (e.g., implementation of a new release of the mainframe operating system, new releases of DB2, WebSphere, etc.).

**5.1.2.1.9** Maintain operations documentation (e.g., batch procedures, batch parameter file and job documentation, output distribution documentation, etc.).

**5.1.2.1.10** The Contractor is responsible for maintaining batch jobs (JCL/Command File Scripts) and submitting changed batch jobs to the State for review. The Contractor must work closely with Computer Platform Services (CPS) to schedule and monitor production work. CPS performs production support including frontline problem resolution and quality assurance. The Contractor must provide training to enable staff to be the first line of support for batch processing. The Contractor will be the second line of support to resolve batch processing problems that CPS is not able to resolve.

### Contractor Responsibilities:

- Determine which jobs will be scheduled and in which order for production, training and acceptance environments.
- Provide input to CPS for System documentation; review documentation.
- Schedule database maintenance batch cycles including loads/unloads, migrations, weekly database maintenance.

### CPS activities (not a Contractor requirement):

- Perform all Control M scheduling; publish monthly and yearly schedules; provide monitor's schedules for production, training, and acceptance environments.
- Create and maintain System batch documentation for CPS support, with input and review by the Contractor.
- Open problem tickets and change tickets for tracking.
- Schedule on-line transactions and System start-up activities.
- Monitor batch jobs, contact programmers for abended jobs, if needed, and rerun jobs as directed by the Contractor.

### **5.1.2.2 Production Operations Problem Reporting**

**5.1.2.2.1** Whenever the System does not perform in all material respects with the specifications therefor agreed to by the parties in writing for a System software modification or enhancement and such non-performance results in data corruption, delay/interruption in online availability, or delays in benefits, notices, reports or other output, the Contractor must promptly notify the State. Notification must be made orally to the State and in writing via issuance to specific distribution lists provided by the State. The notification must include a description of the nature of the problem, the expected impact on operational functions, a corrective action plan, and expected time of problem resolution. Upon correction of the problem, the Contractor must notify the same list(s) that the problem has been resolved.

**5.1.2.2.2** The Contractor is required to provide to the State regular reports of production operations issues, problems, and corrective actions. In addition, the Contractor must enter and track specific production problems using the appropriate code change tracking mechanisms designated by the State.

### **5.1.2.3 Emergency Preparedness and Disaster Recovery**

The Contractor must provide any information about the Systems that is reasonably requested by the Departments in support of state and federal disaster recovery plans to the extent such information is readily accessible to the Contractor. The Contractor is required to assist partners (DOA, DWD CPS, DCF) to enable regular back-up runs and to test disaster recovery mechanisms.

### **5.1.2.4 Security**

**5.1.2.4.1 Intentionally Omitted.**

**5.1.2.4.2 Intentionally Omitted.**

**5.1.2.4.3** All requests by the Contractor for access to State Systems and State data will be given to the State Production Support staff for review and approval. When approved, the request will be forwarded to the State Security Officer for processing.

**5.1.2.4.4** The Contractor must maintain the confidentiality of all passwords and IDs used by Contractor employees in accordance with Exhibit C. Contractor employees will not be permitted to share passwords or IDs among themselves.

**5.1.2.4.5** Provide security training to Contractor staff on State DWD policies 516.03 Standard Security, 516.04 Computer Viruses Standard, 516.05 IT Resource Use Standard, and 516.06 Department Owned and/Leased Software Standard.

**5.1.2.4.6** Notify the State Security Officer prior to any staff leaving the project.

**5.1.2.4.7** Properly destroy (e.g., shred) all reports, notices, and letters that are printed at the Contractor's site that contain end user information that are not forwarded to the State.

**5.1.2.4.8** Require each Contractor staff person to adhere to State DWD policies 516.03 Standard Security, 516.04 Computer Viruses Standard, 516.05 IT Resource Use Standard, and 516.06 Department Owned and/Leased Software Standard.

**5.1.2.4.9** The Contractor must comply with State and federal regulations related to security, confidentiality, and auditing that are applicable to the Contractor in the performance of Services hereunder.

**5.1.2.4.10 Cyber Security**

The Contractor shall assist the State in identifying potential security threats and hazards to the physical sites, Systems and network, including the probability of occurrence, and identifying assets and controls to protect against such threats and hazards.

**5.1.2.4.11 Application Security**

The Contractor is required to work in conjunction with DET to monitor and plan for the application of maintenance patches. In addition, all risks and vulnerabilities identified of which the Contractor become aware must be reported to the State. Upon reasonable request of the State, the Contractor may assist the State with the State's mitigation of critical vulnerabilities. The Contractor must be able to support the most current version of the operating system within the time frame mutually agreed to by the parties.

#### **5.1.2.4.12 Worksite Security**

Access to the Systems must be controlled and restricted to only those with a need to access that System. The Contractor will notify the State if it discovers that a worksite workstation and server that accesses the Systems does not have antivirus software installed or if this software is not current. The State must configure and maintain a firewall for the worksite to restrict access to Systems and all unauthorized users.

#### **5.1.2.4.13 Confidentiality** **Intentionally omitted.**

#### **5.1.2.5 Performance Tuning**

The three (3) goals of performance tuning are to reduce CPU charges, improve the overall response time experienced by users, and reduce operational costs.

**5.1.2.5.1** Performance tuning must be initiated by the Contractor but must also be carried out as requested by the State.

**5.1.2.5.2** The Contractor is required to monitor, evaluate and improve online and batch performance.

**5.1.2.5.3** Design proposals for performance tuning changes must be submitted to the State for approval.

**5.1.2.5.4** The Contractor must maintain application performance standards in accordance with Section 6 of this Exhibit A.

**5.1.2.5.5** The Contractor will assist the State to maintain and support a maximum online CPU utilization time of .1 second per mainframe transaction for 95 percent by volume of all mainframe transactions executed each day.

**5.1.2.5.6** The Contractor will assist the State to maintain and support a maximum online response time for web pages in accordance with Section 6 of this Exhibit A.

**5.1.2.5.7** All System response time measures noted in requirements 5.1.2.5.5 and 5.1.2.5.6 must be based upon data provided by State monitoring tools.

#### **5.1.2.6 Database Administration**

**5.1.2.6.1** All changes to the database (both structural and data) must receive prior approval by designated State personnel according to established procedures.

**5.1.2.6.2** The Contractor must maintain and provide an automated history of all database changes. This audit trail must include date of change, user identifier, as well as before and after images.

**5.1.2.6.3** The Contractor must assist the State to schedule and perform database image copies so that database recoveries are executed as efficiently as possible.

**5.1.2.6.4** The Contractor must assist the State to develop and maintain documented recovery strategies for possible scenarios following an application or System malfunction or human error.

**5.1.2.6.5** The Contractor must perform database recoveries as necessary to restore the database to its prior State following an application or System malfunction, or human error.

**5.1.2.6.6** The Contractor must work with Contractor programmer/analysts and State staff so that database designs are normalized and that deviations from normalization are implemented for performance reasons only. All exceptions to normalization must be documented by the Contractor.

**5.1.2.6.7** The Contractor must work with Contractor programmer/analysts and State staff so that database access by the System is done as efficiently as possible.

**5.1.2.6.8** The Contractor must work with the State to perform necessary database maintenance such as reorganizations to support acceptable database performance (as described under Section 5.1.2.5, Performance Tuning).

**5.1.2.6.9** The Contractor assist the State to implement and test database design changes in the Environments identified in Section 1.2.7 of the RFP.

**5.1.2.6.10** The Contractor must work with State staff to determine the best use of DASD and other computer resources to support acceptable database performance (as described under Performance Tuning) while keeping costs at minimum.

**5.1.2.6.11** The Contractor must test and migrate databases to new releases of DB2, Oracle or related software.

**5.1.2.6.12** The Contractor must obtain prior authorization from the State for all data fixes. Once a data fix is made, the Contractor is required to notify the State.

### **5.1.2.7 Maintenance and Support of Hardware and Software**

#### **5.1.2.7.1 Workstation Maintenance and Support of Desktop Hardware and Software**

At the current time, the State has the capability to support desktop hardware and software. Services and workstations including hardware and software are provided by DWD. The State may not have the capability to support this in the future. Contractor must work with the State to support this function if requested by the State in the future.

#### **5.1.2.7.2 System Infrastructure Support and Maintenance of Hardware and Software**

The System infrastructure (server setup and supporting hardware/software), including

development environment and tools, will be provided by the State. The infrastructure is hosted at DET.

#### **5.1.2.8 Conduct Mass Change Updates**

The Contractor must implement periodic mass changes which update eligibility and benefit determinations on all or part of the Wisconsin CARES caseload. These include, but are not limited to, reference table mass changes such as Cost of Living Allowance (COLAs) or other changes to eligibility parameter tables. Mass changes may also be used to implement Systems changes that affect large segments of the Wisconsin CARES caseload.

#### **5.1.2.9 Ad Hoc Reporting**

The Contractor must provide for the production of ad hoc reports to provide requested detail and summary information about Systems and/or program data. Report requests may be frequent and must be completed within the prescribed timeframe.

#### **5.1.3 Software Changes and Enhancements**

This section describes two (2) specific but related areas of service that the Contractor is required to provide:

- Perform System modification and development activities using a structured System life cycle methodology.
- Control the physical migration of changed software through the System environments using the appropriate migration package.

#### **5.1.3.1 Software Change and Enhancement Life Cycle**

The Contractor must perform software change and enhancement activities using a structured System life cycle methodology which produces the deliverables identified below. For any software changes or enhancement activities that result in any software changes, the following process shall be followed.

##### **5.1.3.1.1 Planning**

The purpose of this phase is to coordinate and prioritize proposed changes, to create, review and approve hourly estimates for software changes, and to schedule approved work for software changes. The Contractor may be asked to participate in meetings with the State to prioritize and schedule such work. Proposed software changes to the System can originate from a variety of sources including the user, customer help desks, business areas, State lead staff and managers, the State Legislature and federal agencies. Approved software changes are made at the direction of designated State staff.

Planning activities must be performed for all business areas so that multiple “tracks” of work proceed concurrently. The scheduling of work within each business area must be dynamic and reviewed frequently to accommodate new work items and revised priorities set by the State. If the State revises priorities, the Contractor will be entitled to invoke the change control process agreed to by the parties to adjust the timeline and/or delivery of certain portions of work affected by the State’s revised priorities.

The planning phase requires the following deliverables:

**5.1.3.1.1.1 Software Change/Enhancement Estimate:** This document consists of a statement of understanding of the work including:

- An assessment of the complexity of the work effort.
- Impact analysis on operations and pending modifications.
- Resource requirements.
- Time estimates by program, phase, and total time.

In addition, the document format must include, at minimum:

- A list of programs to be changed or created.
- A description of the changes needed or of the new program functions.
- A list of data base changes.
- A list of job stream changes.
- Proposed layouts of changed or new screens, pages, and reports.

All software changes or enhancement activities that result in any software changes must be carried out using the software change and enhancement life cycle process described in this section. Small projects must be carried out as expeditiously as possible, while large projects must be carried out with more discreet phases and approval points. On an ongoing basis, the Contractor will be required to justify estimates for work efforts according to the estimating methodology approved by the State.

**5.1.3.1.1.2 Software Change/Enhancement Work Plan:** This deliverable must be based on an approved estimate for a software change/enhancement. For each approved work item, it identifies the staff resources, the time line and due dates for each phase of the work. After completing each phase, the Contractor must submit any revisions to the expected work plan for the next phase.

**5.1.3.1.1.3 Business Area System Calendar:** This document is a summary level implementation calendar of all approved software changes/enhancements that are underway for each Business Area. This document must be produced by the Comprehensive Automated Tracking System (CATS). Approval of all software release versions and their implementation dates resides with the State.

#### **5.1.3.1.2 Requirement Validation**

The purpose of this phase is to validate the business requirements. The Contractor meets with the State to obtain the detailed business requirements for the software change/enhancement, and the Contractor produces the deliverables listed below which will be used by the State to validate the Contractor's understanding of the business requirements of the software change/enhancement. The validation of requirements phase requires the following deliverables:

#### **5.1.3.1.2.1 Detailed Requirements Document**

A list of the detailed business requirements must be agreed upon by the Contractor and the State.

#### **5.1.3.1.2.2 Process Model Narrative**

This is a narrative description of the business requirements which follows the functional decomposition of processes. This must be written in non-technical terms understandable by State policy staff. Process model narratives must be produced in Microsoft Word.

#### **5.1.3.1.2.3 Entity and Data Model**

This deliverable includes the following representations of the data and must be produced via Erwin. Provide an example that includes the following mandatory items:

- Entity Relationship Diagram
- Entity Definitions
- Entity Relationship Cardinalities
- Data Element Definitions
- Data Elements in Entities

#### **5.1.3.1.2.4 Prototype**

Prototypes are working models of screens, pages, and process flows which demonstrate a concept to the user which would be more difficult or time consuming to understand via a narrative description or a static paper layout. A prototype demonstrates the action of data, edits, and the screen/page flows that might accomplish a business requirement. The prototype can be used at the beginning of this phase or as a transition to the next phase, Functional Design.

#### **5.1.3.1.2.5 Other**

Other types of documentation, while not required as formal deliverables, may also be used to facilitate understanding between the Contractor and State staff as mutually agreed upon by the parties.

#### **5.1.3.1.3 Functional Design**

The purpose of this phase is to validate business and technical requirements at a detailed level and develop the functional System design. This phase will finalize the sequence of functions and define the interaction between the user and the System. The functional design phase requires the following deliverables:

##### **5.1.3.1.3.1 Business Logic Diagrams (BLDs) and/or Detailed User Views (DUVs)**

This deliverables document the detailed business process logic at the lowest level of functional decomposition and show how data is used and/or created. The BLDs/DUVs must be written using business language in the logic flow and must be adequately commented and clearly structured to convey the requirements to both technical and program staff. These deliverables must be produced with Microsoft Visio and Word. These must meet the requirement of describing the process to a technical level detailed enough for programmers to use while maintaining business process readability for use by the State business customer,

Systems testers, and user acceptance testers. For a web page the DUV would include the field editing and intelligence, reference tables updated, programs interacted with, page mock up(s), text description of page functionality and purpose, programmatic logic including logic flow diagrams, page specific security, and other relevant data.

BLDs are used to document processes and additionally include flow chart logic diagrams and may not have an associated mock up. (The pieces of the eligibility determination process are an example of processes to be documented in BLDs.)

All Systems functionality must be documented at the BLD/DUV level.

#### **5.1.3.1.3.2 Customer Views**

These are screen/page and report layouts. Mainframe layouts are produced via TELON software. Webpage layouts are produced in Java/.NET and shared via Word. Report layouts are produced in MS Word.

#### **5.1.3.1.3.3 Data Dictionary**

This deliverable creates definitions for entities and attributes and must be done in Erwin.

#### **5.1.3.1.4 Detailed Design**

The purpose of this phase is to develop and document the detailed System design that is required to implement the validated business and functional requirements with respect to a software change. The detailed design phase requires the following deliverables:

##### **5.1.3.1.4.1 Program Specification**

BLDs/DUVs form the basis for program specifications. The State does not currently require that a separate program specification deliverable be maintained apart from the BLD/DUV.

##### **5.1.3.1.4.2 Change Control Document**

This deliverable provides detailed documentation of changes to be made to each program, file, database, customer view, reference table, System documentation, etc. This document must be produced in the Microsoft Suite of products as appropriate.

##### **5.1.3.1.4.3 Design Walk-through**

This deliverable is a face-to-face presentation of the proposed System design to State staff.

##### **5.1.3.1.4.4 Relational Model**

This deliverable is an expansion of the Entity diagram to create a model of the physical DB2 tables required. This must be produced via Erwin.

##### **5.1.3.1.5 Construction and Unit Test**

This phase includes the work needed to modify the Systems software as defined in the detailed design. Areas of work include program code, database, JCL, etc. As programs are completed, unit testing is performed by the Contractor's programmer/analyst.

The construction phase requires the following deliverables:

- Source Code
- Database Configuration
- JCL/Command File Scripts

Unit test results are not required as a deliverable to the State. However, the State requires that all Contractor programmer/analysts be trained in unit testing techniques and that Contractor management monitor the process so that that all software changes/enhancements are appropriately unit tested.

#### **5.1.3.1.6 System and Regression Test**

In this phase, the Contractor must confirm that the software modification(s) that has passed unit testing performs as specified when integrated with the rest of the Systems. In addition, the Contractor confirms that the new business functions are performing as specified.

The Contractor also must perform regression testing designed to determine if the new software modification(s) causes any degradation or errors elsewhere in the Systems.

The System testing function must be performed by staff independent of the programmer/analyst staff who perform unit testing.

System testing is designed to confirm that the System materially conforms with the specifications therefor agreed to by the parties. This includes determination that all necessary software and functions have migrated to the user acceptance testing environment.

Systems testing must also be designed to confirm that the System materially conforms with the specifications therefor agreed to by the parties. Systems testing must test at a detailed technical level (e.g., Testing DB2 table updates, validating file format, ensuring that all requirements in the BLD/DUV are met, ensure web services and interfaces function, etc.) as well as validation of the business process.

The System Test phase requires the following deliverables:

##### **5.1.3.1.6.1 System Test Plan**

The test plan details tests to be performed on each individual piece of new or changed logic as defined in the detailed design documents. The plan must provide a detailed description of testing situations and expected test results; a copy of all test data and input forms, and an organizational chart depicting Contractor personnel responsible for testing. Individual test scenarios must be documented in CATS.

##### **5.1.3.1.6.2 System Test Results**

The System test results for each test scenario must be documented in CATS. Summary reports, including the status of each scenario and number and types of problems discovered, must be produced in CATS and monitored throughout the System test process. Present System results to the State by conducting a walk-through demonstration of new functionality, outputs (such as reports using actual test case data and results), simulating production case scenarios, and before and after images of databases. Any outstanding issues

must be identified through this process. The purpose of the walk-through is to demonstrate that Systems testing is complete, all software changes materially conform with the specifications therefor agreed to in writing by the parties and have migrated to the User Acceptance region, the business requirements are functioning, and the User Acceptance region is ready for User Acceptance testing to begin. When project timelines allow, all Systems functionality associated with a change order/project must move as a whole, not in phases, to UAT on the scheduled UAT start date in the same manner it would move to production. If Systems testing confirms that a software modification materially conforms with the specifications therefor agreed to in writing by the parties, the State will authorize that the System is in a condition that is ready for User Acceptance Testing. If System Testing confirms that a software modification does not materially conform with the specifications therefor agreed to by the parties in writing, the State may reject the software modifications back to the Systems Testing phase and possibly delay the start of User Acceptance testing.

#### **5.1.3.1.6.3 Regression Test Plan**

This plan details testing designed to determine whether the unchanged areas of the System continue to operate correctly. Regression test scenarios must be documented in CATS.

#### **5.1.3.1.6.4 Regression Test Results**

The System test results for each test scenario must be documented in CATS. Summary reports, including the status of each scenario and number and types of problems discovered, must be produced in CATS and monitored throughout the System test process.

#### **5.1.3.1.6.5 Automated Testing and Results**

The Contractor must utilize automated testing tools wherever efficient and must provide documented results to the State in an agreed upon structure.

#### **5.1.3.1.6.6 Job Documentation**

This documentation includes but is not limited to:

- 1) Command file scripts and job control language (JCL)
- 2) Operating procedures
- 3) Error correction/recovery procedures
- 4) Estimated run times
- 5) File size and storage requirements
- 6) List of input, output, and intermediate files
- 7) Record layouts and descriptions
- 8) List and description of each control report
- 9) Batch Schedule

The Contractor must work with the State Operations Group to define the batch schedule for all environments. The current State standard for batch job scheduling is Control-M.

#### **5.1.3.1.6.7 Online Reports Management Distribution**

The Contractor must identify, produce and distribute reports using the State's report management distribution tool(s). The State currently uses EOS for report distribution on the mainframe and Business Objects suite of products for the web.

#### **5.1.3.1.7 Load Testing**

The purpose of the load testing phase is to confirm that the System performs under both load and stress. Load testing is typically done by putting the application under load for an extended period of time. Stress testing is typically done to understand the upper limits of the application and/or infrastructure. The expected application load is 2,500 concurrent users across ACCESS and CWW. To simulate load as seen in production, scripts are run in both ACCESS and CWW concurrently to understand how transactions perform within the application as well as between the applications. The Contractor is required to assist the State in confirming that performance standards in accordance with Section 6 of this Exhibit A are met by performing the necessary systematic changes to resolve substandard test results. Load testing must be completed by Contractor during the UAT timeframe and must show successful results prior to implementation.

The State currently uses Hewlett-Packard Load runner for load testing.

#### **5.1.3.1.8 User Acceptance Test**

The purpose of this phase is for the State to validate that new business functions are performing as required.

The User Acceptance Test phase requires the following from the Contractor:

##### **5.1.3.1.8.1 Batch Schedule Plan**

The Contractor must assist the State to schedule necessary batch jobs needed for UAT testing.

##### **5.1.3.1.8.2 Ad hoc Batch Runs**

As requested by the State, the Contractor must assist the State to schedule and have run batch jobs needed by the State.

##### **5.1.3.1.8.3 Re-test**

Correction, unit testing and Systems testing of problems identified by testers as quickly as possible to avoid adverse impact to User Acceptance Testing progress, including coding change migration, environment stability issues, and communication.

##### **5.1.3.1.8.4 Support**

Support to State testing staff as needed, including, but not limited to, case copies from production, mock up of input files, answer functionality and technical questions, case creation, and be available to assist the State to perform some UAT.

##### **5.1.3.1.8.5 Access to System Scenarios**

Access to Systems test scenarios for re-use and modification.

#### **5.1.3.1.8.6 Key Contact**

Provide a key UAT Contact project manager for each software change/enhancement Deliverable being implemented.

The State will identify problems through test discrepancy reports documented in CATS. The Contractor must make the necessary corrections and test the fixes through unit test and the System test phase before migrating the corrected software back into the UAT environment. The Contractor's project lead will coordinate and communicate migration of fixes to the State UAT contacts.

#### **5.1.3.1.9 Implementation**

The purpose of this phase is for the State to move new or modified software into the production environment. The Implementation Phase requires the following deliverables:

##### **5.1.3.1.9.1 Software Migration Meeting**

The Contractor must meet with State staff responsible for communicating information about changes and enhancements to the local agency users. The purpose of the meeting is to assure that users are informed timely about all changes migrated at any given time.

##### **5.1.3.1.9.2 Software Migration**

This is the actual migration of software changes/enhancements into the training and production environments in accordance with the Systems calendars. The State will perform all software change/enhancement migrations. Migrations must be performed using the forms, controls, and procedures associated with the State's software migration packages.

##### **5.1.3.1.9.3 Production validation**

Projects require different approaches and levels of production validation. The Contractor must work with the State to determine production validation needs and approach. The Contractor must participate and support production validation activities in coordination with State staff.

##### **5.1.3.1.9.4 Post-Implementation**

The Contractor must maintain sufficient staffing and skill sets to support post implementation work until the State determines the implementation to have reached a stable state. This includes supporting emergency fixes and deployments.

#### **5.1.3.2 Life Cycle Documentation Requirements**

The Contractor must maintain the integrity of all Systems documentation.

**5.1.3.2.1** All Systems documentation must be stored in an on-line library. The State currently uses CELS.

**5.1.3.2.2** The Contractor must provide technical writer support for Process Help and System Help.

**5.1.3.2.3** The Contractor must migrate approved documentation in sync with software migration.

**5.1.3.2.4** The Contractor must prepare and distribute meeting minutes for requirements sessions, design meetings and technical walk-throughs or any other meeting where decisions are made. Minutes must be prepared and distributed within three (3) working days of the meetings. Subsequent minutes must incorporate corrections identified by the State. Meeting minutes should contain invitees, attendees, location, date, next meeting date, follow up and outstanding items, decision items, and brief background/discussion overview to represent how a decision was reached. The Contractor must maintain minutes along with documentation deliverables as a record of decisions reached in clarifications meetings between the State and the Contractor.

#### **5.1.3.3 Software Migration Control**

The Contractor must manage software changes/enhancement migration into the system test and user acceptance test environments through the State standard products (Serena's ChangeMan and Merant). All routine and emergency software migrations in all environments, System, acceptance, training, and production, must be done through ChangeMan and Merant. The Contractor is responsible for migrations into the system test and user acceptance test environments. The State is responsible for migrations into the training and production environments. The Contractor must submit requests to the State for review and approval for migration into the training, and production environments.

#### **5.1.3.4 Technical Infrastructure Support**

The Contractor must support the technology and application architecture supporting CARES. Specifically, the Contractor must support the application architecture, focusing on the full development lifecycle of common components, technical shared services, integration components, and framework. Technical innovation for the project will be driven through proof of concepts with new technologies provided by the Contractor. The Contractor must also support many of the common services required by CARES including document management, reporting, batch, and correspondence generation (excluding correspondence printing and distribution). The Contractor must manage the infrastructure that supports CARES and related processes by handling upgrades and maintenance cycles, performing production support activities, conducting build and configuration management, as well as performance tuning and load testing. The Contractor is also responsible for handling all database management and batch schedule coordination.

#### **5.1.3.5 Current Strategic Incremental Renewals**

In order to stay current with technology, ensure a renewable and skilled workforce, and embrace efficiencies and opportunities for cost savings, the State frequently undertakes efforts to strategically, but incrementally, update whole functions or processes in the Systems. These efforts may include replacing or incorporating portions of the System with off-the-shelf software, the complete re-design of processes, the addition or leveraging of new technologies, and/or the incorporation of other emerging best practices. Examples of Strategic Incremental Renewals that the State will be undertaking during the course of this Contract include:

- Utilizing new technologies that allow for an interface between an Interactive Voice Response system and CARES, including IVR systems that allow a member to complete a simple renewal of eligibility, receive information about their current case status, and report changes that will affect their eligibility and benefits.
- Further expanding ACCESS to allow for other community partners to provide information that has a material impact on the eligibility and benefits of members, including the updating of address information, report of person additions to the household, including newborns, and report pregnancies.
- Replace the existing client scheduling system that exists in CARES with a new system that interfaces with an off-the-shelf calendaring system like Microsoft Outlook to make the scheduling of interviews (in-person and telephone) easier for workers, applicants and members. This might also include a connection with the IVR system to allow applicants and members to set up their own appointment times without having to speak with a Customer Service Representative.
- Further expanding Functional Screen Information Access (FSIA), Program Participation System (PPS), and Wisconsin Incident Tracking System (WITS) and/or developing new applications/modules to support operations, and service delivery for various DHS adult long-term care, children's long-term support, and mental health/AODA programs.

#### **5.1.3.5.1 Future Strategic Incremental Renewals**

Examples of future Strategic Incremental Renewals that the State may be undertaking include, but are not limited to:

- Moving all of the letters that we generate, including the letter that is sent at the time of annual renewal and the letter that is sent to request documentation of information provided necessary to determination eligibility and benefits, from its current format to a new format that is easier to read and comprehend.
- Creating new methods to communicate with applicants and members concerning actions that the State will be taking or that they need to take in regards to their program eligibility and benefits. Possible alternate forms of communications include the use of e-mail, cell phone texting or other secure formats.
- Expanding ACCESS to allow for an individual or someone working with that individual to enter the information necessary to begin the process of obtaining disability benefits from the Social Security Administration (SSA), including a series of questions in the self-assessment to help individuals understand if SSI or SSDI benefits might be available.

- Expand the interface between the Electronic Case File and CARES so that we add an icon next to each verification item that when 'clicked on' brings up the documentation that was used to verify that particular entry.
- Implementation of new quality assurance technologies that allow for the detection of cases that have a high probability of containing errors and then special processing for those cases based upon type. For instance, a case that has very high expenses and no current or recent income sources would require a supervisor to review the case before eligibility and benefits could be confirmed. Other case situations would be flagged for a monthly or weekly review done by quality assurance specialists.
- Enhance existing programming that allows the State to use CARES to determine Medicaid eligibility for SSI members and to send enrollment information about those members to the State's MMIS system, to allow for the implementation of an SSI Combined Application Process for the FoodShare program. Enhancing the Systems data reporting and management capabilities. This includes collection, storage, interactive retrieval, reporting and analysis.
- Implementation of changes to program policy and populations served as required by State and federal laws.

**5.1.3.5.2** The Contractor must be able to produce staffing and technology components to support State-approved Strategic Incremental Renewal projects. The Contractor must have the capacity to staff up or down by at least 33.3% of FTE level within two (2) months. The Contractor must have the capacity to perform 33.3% FTE increases on a yearly basis.

### **5.1.3.6 Technical Assistance, Training, and Implementation Support**

#### **5.1.3.6.1 Ongoing Training**

The Contractor must support ongoing training of staff in multiple areas, which includes but is not limited to, the customer help desks, the State training units, and the State's technical staff.

#### **5.1.3.6.2 Help Desk Consultation**

The Contractor must provide continuous consultation to the staff who comprise the various help desks and training staff as needed.

#### **5.1.3.6.3 Knowledge Enhancement**

The Contractor must work to continuously enhance the knowledge of the State Help Desk and State Systems support staff regarding the Systems in order to improve their capacity to deliver high quality assistance to local agencies. The Contractor will also seek to improve the accuracy and specificity of problem reports generated by the help desks and must facilitate communication and understanding of problems and their resolution between the Contractor analysts and Help Desk staff.

#### **5.1.3.6.4 Ongoing Training Materials and Support**

The Contractor must provide ongoing support to the State training units as requested by the State in the development of materials and programs for the delivery of training to users. The Contractor will work directly with State training staff on the development of materials and will coordinate the participation of other Contractor analysts who are knowledgeable in the functions and features of the Systems that are the topics of training presentations. The Contractor will support State staff needs for the creation of presentation materials as requested and provide active support for Systems demonstrations.

#### **5.1.3.6.5 Provide Technical Training**

As technical changes and upgrades are made to the Systems development and operational platform, the Contractor will be required to provide formal training as requested to State technical staff regarding use of the new technology for the Systems. Technical training may include both classroom and "hands on" training.

### **5.1.4 Facilities and Equipment**

#### **5.1.4.1 Facility Requirements**

The Contractor must lease and equip an office in Madison, Wisconsin to house the contract staff unless State office space and equipment is available and provided to the Contractor. Specific requirements for each scenario are included in this section.

##### **5.1.4.1.1 Contractor-provided Facility**

**5.1.4.1.1.1** The facility must provide adequate space to accommodate the required on-site Contractor personnel.

**5.1.4.1.1.2** The Contractor must have adequate space to accommodate Contractor 33.3% FTE expansion annually and one state staff common office. The Contractor must have space available within two (2) months of the State's request for a Contractor FTE increase.

**5.1.4.1.1.3** The facility must be operational within 60 calendar days of contract signing.

**5.1.4.1.1.4** The facility must be located in the City of Madison, Wisconsin within one mile of the Capitol Building. The State may consider exceptions to this distance requirement provided there is a strong basis for such request.

**5.1.4.1.1.5** The Contractor will be responsible for all costs related to the rental and operation of the Madison facility, including, but not limited to, leasehold improvements, utilities, security, office equipment, network infrastructure cabling for computer equipment, general office supplies, storage, insurance and janitorial services. The Contractor will be responsible for all the above costs for one State staff common office at the Madison facility.

**5.1.4.1.1.6** The Contractor must make office space available for occasional State staff onsite work. At least one office should be set aside for this purpose. Department of Administration office space allocation guidelines are available at: <http://doa.wi.gov/index.asp?locid=4>

**5.1.4.1.1.7** The facility must include a minimum of two (2) conference rooms, of approximately 250 square feet each and a presentation room, which can accommodate approximately 40 people. The conference rooms and presentation room must be equipped with appropriate tables and chairs and appropriate visual aids, such as white boards, overhead projectors, etc.

**5.1.4.1.1.8** The Contractor must make available free parking adjacent to the facility for at least ten (10) spaces to be used as visitor parking.

#### **5.1.4.2 Equipment**

**5.1.4.2.1** The Contractor must provide equipment for all Contractor and State staff at the facility according to the following requirements:

**5.1.4.2.2** The Contractor must supply equipment for Contractor staff, including cubicles and furniture. The State currently has the capacity to provide and support all hardware and software connected to the State's network which is necessary for the Contractor to fulfill the requirements of this Contract. The State's capability to provide this service may change. The Contractor must have the capacity to support this function if requested by the State. See DWD Desktop/Notebook and Base Software Standards found at: <http://www.dwd.state.wi.us/asd/procurement/1929/> for the range of desktop and notebook configurations currently supported at DWD.

**5.1.4.2.3** All hardware and software required to maintain and enhance the Systems will be provided by the State. The Contractor must work with State staff to maintain the inventory of State equipment at the Contractor's location and to plan and implement any upgrades to hardware and/or software. The State's capability to provide this service may change. The Contract must also have the capacity to provide this function, at a mutually agreed upon cost, if the State requests it.

**5.1.4.2.4** The Contractor is required to maintain cell phones and pagers for all Contractor staff required to be on-call as determined by the State.

**5.1.4.2.5** The common office for a co-located State staff must each be equipped as follows:

- Desk with drawers (one locking drawer)
- Swivel chair
- Side chair
- Filing cabinet (locking)
- Table for workstation

### **5.1.5 Management and Reporting**

This section describes management and reporting requirements for the Contractor. The goal of these requirements is to provide regular and frequent communication to the State regarding the following: staff resources, management approach for new tasks, adherence to schedules, problems or issues that could affect successful outcomes of work under the Contract pertaining to the Systems.

#### **5.1.5.1 Meetings**

Contractors are required to hold regular meetings between the Contractor and the State to review, prioritize, and plan work to be carried out under the Contract. Meeting frequency and timings will vary and the Contractor must be flexible to work within the State's availability.

#### **5.1.5.2 Reports**

The following describes the minimum level of required reports.

**5.1.5.2.1** The Contractor is required to provide a monthly production maintenance report on the status of all areas of work under. It will highlight problems or special activities in production maintenance. It will also address any issues, problems or changes related to facilities and equipment.

**5.1.5.2.2** The Contractor is responsible to provide a regular Systems change and enhancement report to each business area. These reports will describe the status, progress, and problems related to all Systems modification and enhancement work that is currently under way. They will also address preparations (when it will start, likelihood to start on time, resources) for planned work. This work is described in Section 5.1.3 Software Changes and Enhancements.

**5.1.5.2.3** Upon the State's request, the Contractor is responsible to provide a training report for all work addressed in Section 5.1.3.5 Technical Assistance, Training, and Implementation Support. It should summarize training activities, issues and plans for the next month.

**5.1.5.2.4** The Contractor is responsible for providing the State with a detailed 12-month schedule of Systems work that has been approved by the State. The Contractor must manage the Systems work within their FTE and expertise area and immediately advise the State of any needed schedule changes or resource issues.

#### **5.1.5.3 Issues Resolution**

The Contractor must provide a plan that addresses elevation of issues for joint management decision by the Contractor and the State. This plan should address the documentation, tracking, joint resolution and timely disposition of issues which affect any of the areas of work under the Contract which cannot be resolved at the staff level.

#### **5.1.5.4 Quality Management**

A quality assurance/quality management (QA/QM) proposed structure is to be developed as part of the proposal and refined early to address the needs and specific opportunities for quality improvement throughout the Contract period. The QA/QM plan should reflect the Contractor's experience and resolve toward quality in Systems design, testing, and implementation; process design and staff training; performance standards development and measurement; and customer satisfaction measurement and analysis. As part of its approach to quality management, the Contractor shall develop, support, and report progress against System metrics or System measurement criteria.

#### **5.1.6 Project Management**

This section describes project management function requirements of the Contractor. The Contractor is responsible for providing project management functions to the State for administration of the programs covered in this Contract. The Contractor is required to provide capacity to handle multiple requests simultaneously and to implement these requests without diverting support from regular production activities.

##### **5.1.6.1**

The Contractor must provide project management services. These services must include a method to address the five process groups of a project: Initiating, Planning, Executing, Controlling and Monitoring, and Closing. This must also include management of the nine knowledge areas: Project Integration Management, Project Scope Management, Project Time Management, Project Cost Management, Project Quality Management, Project Human Resource Management, Project Communications Management, Project Risk Management, and Project Procurement Management.

##### **5.1.6.2**

The Contractor must provide project management support designed to confirm that the project stays on track, meets timelines, and stays within the budget.

##### **5.1.6.3**

The Contractor must provide the State with additional expertise and advice on the management of the project and solutions to correct missteps, delays and cost overruns as requested.

##### **5.1.6.4**

The Contractor must coordinate activities of key stakeholders and decision makers including setup and execution of Systems demonstrations.

##### **5.1.6.5**

The Contractor must develop a project plan and timeline to track progress from requirements development through to post-implementation activities. This must include deliverable and milestone tracking and reporting.

**3. Section 7.4 (Actual Billing Rates by Position) of the RFP is amended and restated in its entirety as follows:**

The form in Appendix C to the RFP is not considered toward any of the evaluation criteria, but will be used for future resource estimates of Deliverables (as defined in Exhibit C) not specified within the requirements of this RFP; that the Department may request of the Contractor awarded a contract as a result of this RFP. Services will be undertaken based on estimates provided by the Contractor using the Actual Billing Rates By Position entered in Appendix C to the RFP as approved by the State. The Contractor shall submit invoices under this component only for work approved in advance by the State.

**4. Section 8.0 (Special Contract Terms and Conditions) of the RFP is amended and restated in its entirety as follows:**

**8.0 SPECIAL CONTRACT TERMS AND CONDITIONS**

**8.1 Contract Administrator**

The Contractor and DHS agree to have specific staff assigned to act as Contract Administrators at all times. These representatives of the parties will handle the day-to-day delivery of services, will be the first contact regarding any proposals, questions, and change orders, and will work together so that problems and conflicts are resolved fairly and promptly. DHS Contract Administrator or delegated representative will approve payments to the Contractor for billable hours and fixed cost infrastructure/support. DHS Contract Administrator will have authority for all contract-related functions. The DHS Contract Administrator will be James Jones, Deputy Administrator for the Division of HealthCare Access and Accountability, Department of Health Services. The DHS Contract Administrator will be the Contractor's first contact with DHS in all matters stated above. In no instance shall the Contractor refer any matter to any other official outside the Contract Administrator's management structure, unless an initial contact has been made with the DHS Contract Administrator. The Contractor Contract Administrator will be Jeff Bradfield or Divya Nidhi.

**8.2 Cooperation During Transition**

The Contractor must reasonably cooperate with and help facilitate any transition for the provision of CARES-related services to a different Contractor and to the State for six (6) months prior to the expiration of the Contract. Failure to so cooperate or the withholding of any State information or documentation requested by the State or a different Contractor that impairs in any way the transition of the provision of CARES-related services to a different party may constitute a material breach of the Contract.

Additionally, if the State has paid for the services performed through the date of expiration of the Contract, at the written request of the State, the Contractor shall continue to perform the duties and responsibilities of the

Contract for up to six (6) months following the expiration date of the Contract. In such case, the Contract shall be deemed extended and such work shall be subject to the terms and conditions of the Contract.

The State will notify the Contractor, in writing, of its intent to initiate the transition period one hundred and twenty (120) days prior to the start of the transition period. This written notification shall include the start date of transition and the requested number of staff by position. The Contractor will respond to the State's written notification within thirty (30) days after receipt. The response will include an estimate of time, number of resources, and cost for the services to perform the transition.

In addition, if the service transition assistance requires the Contractor to incur expenses in excess of the expenses that the Contractor would otherwise incur in the performance of this Contract then: the Contractor shall notify the State of any additional expenses associated with transition (e.g. leases, office space, furniture, office equipment, travel and subsistence etc.). The State shall pay the Contractor for additional expenses, incurred during transition on a monthly basis, provided they were authorized by the State prior to being incurred.

It is the understanding of both parties that the Contractor will be compensated for these services on a time and material basis including those authorized services and expenses which extend beyond the expiration of the Contract.

During the transition period the Contractor may provide the following types of services, but not limited to, subject to the availability of resources, as agreed to by the parties:

- 1 developing an overall transition plan
- 2 freezing of non-critical software changes
- 3 notifying all Contractor employees and subcontractors of procedures to be followed during the turnover phase
- 4 reviewing software libraries with the new service provider or the State
- 5 database administration
- 6 software problem analysis
- 7 production support
- 8 application testing
- 9 documentation maintenance
- 10 implementation support
- 11 technical training
- 12 software testing

#### **8.2.1 Turnover Plan**

The Contractor shall provide the State with a plan for the complete turnover of its responsibilities under the Contract in a manner to allow for uninterrupted continuation of services and will revise the plan until

reasonably acceptable to the State. The Contractor shall submit the plan at one of the following times, depending upon which applies: no less than 60 days prior to the Contract's expiration; within 10 working days of notice of termination by the State; or, along with Contractor's notice of termination. The plan will include provisions for the transfer of all State information held by the Contractor or its subcontractors and not also held by the State; provided, however, that Contractor may retain copies of the any such information as part of its workpapers provided that such copies remain subject to its confidentiality obligations hereunder.

**8.3 Executed Contract to Constitute Entire Agreement Intentionally Omitted.**

**8.4 Federal Inspections Intentionally Omitted.**

**8.5 Fixed Price Deliverables**

DHS may designate any requested System change deliverable as a fixed price deliverable. At the completion of external design for such System change deliverable, the Contractor will schedule a review of the design with DHS. Included in the external design document for such System change deliverable will be the Contractor's price for the deliverable. After DHS' acceptance of the external design document, this price will be fixed for the deliverable. Requests for payment for fixed price deliverables may be invoiced at the end of the month during which acceptance for the deliverable was given. Costs for such a designated System change deliverable shall be fixed unless the Department cancels or changes the scope of the deliverable. If DHS cancels the deliverable prior to acceptance, the Contractor may invoice only for expended hours up to the date of cancellation. If DHS changes the scope of the deliverable, a revised deliverable to include cost will be negotiated. If any of the following events occur while Contractor is engaged to provide a fixed price deliverable (each a "Change Control Event"), Contractor shall be entitled to invoke the change control process agreed to by the parties to eliminate any adverse impact:

- (i) The scope, approach or timing of the services change,
- (ii) Delays are encountered that are beyond the reasonable control of Contractor, including, without limitation, delays caused by third party software and hardware vendors or their related products and/or services,
- (iii) An assumption set forth in the project plan proves to be invalid, or
- (iv) The State fails to meet its obligations as set forth herein.

Contractor will notify the State, in a reasonable period of time after becoming aware of a Change Control Event. Notwithstanding anything to the contrary in the contract, if the parties are unable to reach a complete agreement on a change order within thirty (30) days of the State being notified of a Change

Control Event, Contractor may, at its option, suspend or terminate the services upon written notice to the State. Change orders to a project plan will only be effective when signed by authorized representatives of each party.

**8.6 Foreign Corporation  
Intentionally Omitted.**

**8.7 Inspection Of Work Performed  
Intentionally Omitted.**

**8.8 Legal Relations  
Intentionally Omitted.**

**8.9 Liquidated Damages**

It is agreed by DHS and the Contractor that in the event that the Contractor fails to submit or complete a system project initiative mutually agreed to by the parties in writing to be designated as such ("System Project Initiative"), in accordance with any date specifically agreed to by the parties in writing to be (i) a "Firm Performance Date" in the project plan for such System Project Initiative and (ii) subject to this Section 8.9, damage may be sustained by DHS, and that it may be impractical and extremely difficult to determine the actual damage which DHS will sustain, in the event of and by reason of such delay.

It is, therefore, agreed that the Contractor may be required to pay, beginning on the first day of a Firm Performance Date which may be identified in the project plan for a System Project Initiative, liquidated damages for each business day of delay of delivery of such System Project Initiative in the amount of up to three thousand dollars (\$3,000) for each business day and every business day until such System Project Initiative is delivered (not to exceed an aggregate of the total fees for such System Project Initiative, but in no event greater than \$250,000 for all System Project Initiatives that have an agreed upon Firm Performance Date). Notwithstanding the foregoing, Contractor shall only be required to pay such liquidated damages if such delay is (a) solely attributable to the Contractor and (b) not the result of a cause beyond the Contractor's reasonable control.

The Contractor shall deduct from the next monthly invoice the amounts due as liquidated damages and include the dates for which damages are due. Except for Contractor's delay in meeting a Firm Performance Date for a System Project Initiative for the Wisconsin ABHE that directly results in the failure of DHS to be permitted by the U.S. Department of Health and Human Services to operate the Wisconsin ABHE, the foregoing liquidated damages are the sole and exclusive remedy of DHS and the sole and exclusive obligation of the Contractor for any delay in meeting a Firm Performance Date for a System Project Initiative.

**8.10 Minority Business Subcontractors  
Intentionally Omitted.**

**8.11 Personnel Changes**

If Key Personnel designated as such in Section 4.3.2.1 of the Proposal (Chart of Key Positions) are not available for the Contract with DHS, the Contractor agrees to provide personnel, who meet the minimum qualifications listed in the RFP. DHS reserves the right to accept or reject the Contractor's Key Personnel assignments, however such right shall not be unreasonably or unlawfully invoked.

The Contractor may not divert Key Personnel for any period except in accordance with the procedure identified in this section. The Contractor shall provide a notice of proposed diversion or replacement to the DHS Contract Administrator at least thirty (30) calendar days in advance, together with the name and qualifications of the person(s) who will take the place of the diverted or replaced Key Personnel. At least twenty (20) calendar days before the proposed diversion or replacement, DHS Contract Administrator will notify the Contractor whether the proposed diversion or replacement is approved or rejected, and if rejected will provide reasons for the rejection. "Divert" or "diversion" is defined as the transfer of personnel by the Contractor or a subcontractor to another assignment within the reasonable control of the Contractor or a subcontractor. "Divert" or "diversion" does not include the resignation, death, disablement, or dismissal for cause of personnel which is beyond the control of the Contractor or subcontractor. The Contractor shall endeavor to have replacement Key Personnel on-site at least two (2) weeks prior to the departure date of the person being replaced. Upon reasonable prior written request, the Contractor shall provide DHS with reasonable access to any Key Personnel diverted by the Contractor who remain employed by the Contractor.

Unapproved diversion of Key Personnel prior to expiration of the thirty (30) calendar day advance notice period will cause damage to DHS that would be difficult to determine. Therefore, any such diversion of Key Personnel will result in the imposition of liquidated damages in the amount of \$2,000 per business day for each such offense. The damages will begin on the first business day of the diversion and will continue until the Contractor's replacement is accepted by DHS and begins work, or until the thirty (30) calendar day period from the notice of diversion has expired, whichever is sooner. The maximum assessable damages under this provision, per unapproved diversion, is sixty thousand dollars (\$60,000.00). The foregoing shall be the sole and exclusive remedy of the State for any claim relating to unapproved diversion of Key Personnel.

Replacement of Key Personnel who have terminated employment with Contractor shall be with persons of substantially similar ability and qualifications. DHS shall have the right to conduct separate interviews of proposed replacements for Key Personnel. DHS shall have the right to approve, in writing, the replacement of Key Personnel, however such right shall not be unreasonably or unlawfully invoked.

Any Contractor personnel, reasonably determined by DHS to be non-cooperative, inept, incompetent, or otherwise reasonably unacceptable, shall be removed by the Contractor after such problematic behavior has been documented by DHS and the Contractor has been given reasonable time, not less than thirty (30) calendar days, to remedy the problems identified and has failed to do so. However such right shall not be unreasonably or unlawfully invoked. In the event that an individual is removed from the project pursuant to a request by DHS, the Contractor will have thirty (30) calendar days in which to fill the vacancy with another employee with reasonably acceptable experience and skills subject to the prior written approval of DHS. Such approval by DHS will not be unreasonably withheld or delayed.

**8.12 Prime Contractor Responsibility  
Intentionally Omitted.**

**8.13 Settlement of Disputes  
Intentionally Omitted.**

**8.14 Responsibilities Upon Termination  
Intentionally Omitted.**

**8.15 Right to Publish  
Intentionally Omitted.**

**8.16 Severability  
Intentionally Omitted.**

**8.17 Site Rules and Regulations  
Intentionally Omitted.**

**8.18 Software Ownership  
Intentionally Omitted.**

**8.19 System Changes**  
DHS and/or State standards must be used for System changes where those standards have been defined and agreed to by the parties in writing. The State may at any time request the Contractor to make System changes/enhancement to CARES via the PCR Process (Problem/Change Report process). Upon the State's request, the Contractor shall provide the State

with a written resource estimate before any such System changes/enhancements occur. Only System changes/enhancements approved by the State will be allowed and billable under this Contract. All approved Problem/Change Reports must be added and documented in the CATS System or its equivalent.

## **5. WITHHOLD**

The State shall be entitled to withhold any additional unpaid professional fees for the Services associated with a specific Software Change/Enhancement Deliverable (as such term is used herein), in the event that during State User Acceptance Testing (UAT), the State notifies the Contractor that the State is unable to continue testing due to the existence of a Severity One UAT System Defect (as such term is defined in Section 7 below). The Contractor shall correct such Severity One UAT System Defect within a reasonable period of time following such notification by the State, or as otherwise agreed between the Contractor and the State. Any withheld professional fees shall be paid to Contractor within ten (10) days of the State's completion of User Acceptance Testing (UAT) for such Software Change/Enhancement Deliverable.

## **6. ABHE/CMS GUIDANCE**

The parties shall incorporate the guidance set forth in the Office of Consumer Information and Insurance Oversight, Center for Medicare and Medicaid Services, Guidance for Exchange and Medicaid Information Technology Systems Version 1.0, dated November 3, 2010 ("CMS Guidance"), as applicable, into the scope of services performed with respect to the ABHE as set forth in the relevant project plan. The Contractor shall perform such services at the direction of the State and shall be entitled to rely upon the State's interpretation of the CMS Guidance as it relates to the services the Contractor performs in connection with the ABHE.

The Contractor shall be entitled to invoke the change control process agreed to by the parties to address any new or modified CMS Guidance (effective after November 3, 2010) which may affect the Contractor's performance of services hereunder.

## **7. SERVICE LEVEL AGREEMENTS**

**Appendix E of the RFP is amended and restated in its entirety as follows:**

### **Overview**

A Service Level Agreement (SLA) is an aspect of performance for which an Acceptable Service Level (ASL) is explicitly defined. The Service Level Agreements for Wisconsin CARES System are listed below by category.

An appropriate service level can be defined as challenging but achievable with reasonable rewards and punishments. Levels set too low do not encourage improvement

in services provided. Levels set too high may foster an attitude of failure and lack of motivation to provide the service levels desired.

### **System Metrics**

CARES System Online Availability Uptime  
CARES System Transaction Response Time  
Benefit Issuance File Creation and Transmission  
Production Batch Job Execution  
User Acceptance Test Project Quality

The Contractor (as such term is defined in the Contract) shall perform all listed Services (as such term is defined in the Contract) in accordance with the Contract and the requirements outlined in this exhibit. Liquidated damages have been included for each SLA.

Note: The Contractor's performance will be measured on the components of the CARES System and the processes for which the Contractor has reasonable control. The Contractor does not control the availability and performance of the State network, infrastructure or the application hosting environment.

### **Quarterly Reporting**

The Contractor must comply with the approved State format for the required monthly SLA reporting. This report is due no later than the 15<sup>th</sup> business day of the month following the prior quarter's data.

The Contractor must also supply the State with electronic access to all reports or data used in the determination or preparation of SLA compliance.

A "quarter" for the purposes of the following SLAs shall be measured in the following manner: The first quarter shall start on the Effective Date of the Contract and shall continue for three months. If the Effective Date of the Contract is any day in a calendar month other than the 1<sup>st</sup> day of that month, the first quarter of this Contract shall include the month that the Contract is executed and three additional calendar months. Each subsequent quarter shall start on the 1<sup>st</sup> of a month and continue for three full calendar months.

### **Periodic Reviews**

During the first six (6) months of this Contract, the State and the Contractor will review all SLAs to determine whether new metrics are required or existing metrics need to be revised. After this initial review, each SLA will be reviewed on a periodic basis to determine if the defined service level is appropriate. Either the State or the Contractor may call for a SLA review if service levels for any SLA are no longer appropriate, if SLAs need to be added, or if there are changes to the application or infrastructure that will impact the existing metrics.

### **Liquidated Damages**

In the event the Contractor does not perform its obligations in accordance with the following SLAs, the State may incur major costs to maintain the functions that would have otherwise been performed by the Contractor. The parties understand and agree that the damages herein provided for are difficult to establish and are a reasonable approximation of actual damages incurred by the State.

The State shall measure performance by the Contractor against each SLA. On a quarterly basis as specified, no later than the 15th business day of the month following the prior quarter, the Contractor shall provide the State with a written detailed incident report, that covers all occurrences where an ASL (acceptable service level) is not met, which describes: 1) the missed ASL; 2) the specific cause of the problem; 3) the solution; and, 4) how the Contractor will avoid missing the ASL in the future. Upon delivery of the incident report, the State may request a meeting to further discuss issues related to the report.

If the Contractor fails to meet the performance specifications as identified herein, liquidated damages may be assessed by the State against the Contractor. The amounts of these damages are delineated herein. The State will formally notify the Contractor, by the last business day of the month following the prior quarter, of the intent to pursue any such liquidated damages by any metric that does not meet an ASL for the prior quarter. The State has the right to withhold payment to the Contractor for liquidated damages that the parties mutually agree are due.

The Contractor will not be assessed liquidated damages when Contractor's failure to meet such SLAs is the result of circumstances beyond its reasonable control. Such circumstances shall include, but not be limited to:

- The availability and performance of State provided software, hardware, and infrastructure or software and hardware provided by a third party that is not Contractor's subcontractor or agent;
- code changes introduced into the CARES System by non-Contractor personnel;
- and
- a force majeure condition.

The assessment of liquidated damages set forth herein shall constitute the sole and exclusive remedy the State may have, and the sole and exclusive obligation of the Contractor, with respect to any claim arising out of the Contractor's failure to comply with any SLAs described herein.

**Glossary**

Some words and phrases are intended to convey a specific and precise meaning when used in this exhibit. Table 1 below defines these words and phrases.

**TABLE 1. DEFINITIONS OF TERMS USED IN THIS EXHIBIT**

| <b>Term</b>  | <b>Definition</b>   |
|--|---|
| <b>Acceptable Service Level (ASL)</b>                | The minimum level of CARES system performance that is acceptable to the State of Wisconsin. Acceptable Service Levels are established in this document.   |
| <b>Application</b>                                   | CARES Systems (see definition below)  |
| <b>Available</b>                                     | When applied to CARES Systems, “available” means that the application and the supporting computing infrastructure under the Contractor’s reasonable control are operating normally. CARES may be operating normally and yet unavailable to users because of problems in infrastructure components that the Contractor does not reasonably control.  |
| <b>Batch Window</b>                                  | The period of time scheduled to run batch jobs.(the period of time when the CARES System is offline to the next scheduled online availability)  |
| <b>Build Production Implementation Due Date/Time</b> | This is the date and time of scheduled systems availability after a production build implementation. Example: If a production build is scheduled to occur on Saturday evening with the systems available at 7:00 A.M on the following Monday, than the Production Build Implementation Due date/time is 7:00 AM Monday.   |
| <b>CARES, CARES Systems, or Systems</b>              | The Wisconsin Client Assistance for Re-employment & Economic Support (CARES) computer system (mainframe and CARES Worker Web) and related systems which may include, but are not limited to: ACCESS (Am I Eligible, Apply For Benefits, Check My Benefits, Report My Changes, Renew My Benefits, ACCESS for Partners and Providers), Wisconsin Integrated Security Application (WISA), Electronic Case File (ECF), Functional Screening Information Access (FSIA), Disability Determination Bureau (DDB) Case Management System, Electronic Benefits Transfer (EBT) support, Personal Care Screening Tool (PCST), Elder Abuse Reporting (WITS – Wisconsin Incident Tracking System), Master Customer Index (MCI) and Employer Verification of Health Insurance (EVHI) |
| <b>CARES Online</b>                                  | User interfaces for CARES systems.  |

| Term  | Definition   |
|---|--|
| <b>Downtime</b>                             | CARES Systems: Anytime, outside of maintenance windows or State-requested maintenance, that the entire CARES Mainframe System is unavailable for any users to process transactions.  |
| <b>Function</b>                             | A capability of CARES systems or any of its component systems or subsystems. For example, eligibility determination is a function of CARES.  |
| <b>Maintenance Window</b>                   | A pre-scheduled period of time during which maintenance is performed. The associated CARES system will not be available during maintenance windows.  |
| <b>Quarterly Reporting Due Date</b>         | All reports for a given quarter are due by the fifteenth business day of the following month after the end of such given quarter.  |
| <b>Scheduled System Availability Period</b> | A schedule of system availability is negotiated and approved by the State and the Contractor. This approved schedule is used to measure systems availability.  |
| <b>Transaction</b>                          | A single add, change, inquiry, or delete unit of work initiated through a CARES systems online application screens/pages. Each screen/page may initiate one or more requests (transactions) based on the system application requirements.  |
| <b>Transaction Response Time</b>            | The time required for the CARES systems to process a request and return data on the part of the host network under the Contractor's reasonable control.  |
| <b>Severity One UAT System Defect</b>       | Severity One UAT System Defect is each time (counted only when first reported) that the CARES System is completely inoperable or when all user acceptance testers are unable to use the CARES System. An example of a Severity One UAT System Defect would be an issue which prevents all user acceptance testers the ability to login to the CARES System or when critical exceptions/fatals/abends caused all users to be unable to perform any user acceptance testing. |
| <b>Uptime</b>                               | When applied to CARES Systems, "uptime" means periods of time during which the application and the supporting computing infrastructure under the Contractor's reasonable control are operating normally. CARES systems may be operating normally and yet unavailable to users because of problems in infrastructure components that the Contractor does not reasonably control.  |

# CARES Systems Online Availability Uptime

**Definition:** Hours of possible uptime in a month that the CARES Mainframe Systems are available to the users to process transactions.

**Scope:** CARES Mainframe Systems. Planned outages (e.g., for system maintenance) do not count as downtime.

## 1. Acceptable Service Level

### Production

**SLA Requirement:** Downtime less than or equal to 5 hours

## 2. Reporting Method and Calculations

**Reporting Interval:** Quarterly  
**Unit of Measurement:** Hours  
 (Downtime starts when the entire CARES Mainframe System is unavailable for users to process transactions.)

Each report will contain the following information:  
 Daily accounting of downtime minutes during the scheduled online availability period.

A total accounting of downtime minutes per month during the Scheduled online availability period

|                |    |           |
|----------------|----|-----------|
| >5 & <=9 hrs   | \$ | 10,000.00 |
| >9 & <=14 hrs  | \$ | 25,000.00 |
| >14 & <=18 hrs | \$ | 40,000.00 |
| >18 hrs        | \$ | 80,000.00 |

### **3. Liquidated Damages**

Liquidated damages for non-compliance with this ASL shall be assessed as defined in the table below. If Contractor achieves Downtime of less than or equal to 5 hours in a particular quarter, Contractor shall be entitled to receive a credit of \$10,000 per quarter which shall be used to offset any liquidated damages assessed during the term of the Contract for its failure to comply with any of the SLAs set forth herein.

# CARES Systems Transaction Response Time

**Definition:** The response time for user transactions from within the CARES Mainframe Systems excluding system transactions such as third-party interface transactions (internet based web services) and MCI services.

**Scope:** All CARES Mainframe Systems.

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## 1. Acceptable Service Level

### Production

**SLA Requirement** 95% of all transactions load in 2 seconds or less. 98% of transactions load within 5 seconds or less

**Non-Business Operations Window:** N.A.

### Reporting Method and Calculations

**Reporting Interval:** Quarterly  
**Unit of Measurement:** Seconds (During the scheduled system availability period all CARES transaction response times will be logged and averages calculated for the quarter.)

Each report will contain the following information:  
Total number of CARES transactions during scheduled system availability period.  
Percentage of transactions during the scheduled system availability period with response times within the specified range  
Total number of CARES transactions per quarter

### **3. Liquidated Damages**

Liquidated damages for non-compliance with this ASL shall be assessed at \$3,000 per SLA Requirement metric per quarter.

If Contractor achieves the ASL above in a particular quarter (meaning both 95% of all transactions load in 2 seconds or less and 98% of transactions load within 5 seconds or less), Contractor shall be entitled to receive a credit of \$3000 calculated for each quarter which shall used to offset any liquidated damages assessed during the term of the Contract for its failure to comply with any of the SLAs set forth herein.

|  |  |  |  |
|--|--|--|--|
| <b>Benefit Issuance File<br/>Creation and Transmission</b> |  | <b>Definition:</b>   | Benefit Issuance Files (as such term is defined below) are created by the CARES Systems and transmitted to external systems for benefit issuance (eg. Health enrollment files are sent to interChange; FoodShare benefit issuance files are sent to the EBT vendor system) |
|  |  | <b>Scope:</b>  | This includes daily and monthly files.   |
| <b>1. Acceptable Service Level</b>                         |  |  |  |
| <b>Production</b>  | <p>98% of all issuance files are transmitted on the scheduled transmission date or within the scheduled Batch Window.</p> <p>100% of all issuance files are transmitted within 2 days of scheduled transmission date or within the scheduled Batch Window.</p> |  |  |
| <b>2. Reporting Method and Calculations</b>                |  |  |  |
|  |  | <p>Each report will contain the following information:</p> <p>Total number of quarter-end issuance batch jobs for the month</p> <p>Total number of unsuccessful benefit issuance files for the quarter</p> |  |
| <b>Reporting Interval:</b>                                 | Quarterly  |  |  |
| <b>Units of Measurement:</b>                               | Number of successful benefit issuance files transmitted by total benefit issuance files transmitted.   |  |  |

### 3. Liquidated Damages

Liquidated damages for non-compliance with ASL shall be assessed at \$5,000 per quarter per metric. If Contractor achieves the ASL above in a particular quarter (meaning at least 98% of all issuance files are transmitted on the scheduled transmission date and 100% of all issuance files are transmitted within 2 days of scheduled transmission), Contractor shall be entitled to receive a credit of \$5000 calculated for each quarter which shall be used to offset any liquidated damages assessed during the term of the Contract for its failure to comply with any of the SLAs set forth herein.

Benefit Issuance Files means:

| Benefit Issuance File Description   | File Name (Dot30 server) | CARES Dataset Name              |
|---|--------------------------|---------------------------------|
| Daily CARES Medicaid enrollment referrals to Medicaid Fiscal Agent system, interChange. This file includes the following record types: <ul style="list-style-type: none"> <li>• RT 40 - demographic information for individuals.</li> <li>• RT 50 - CARES Medicaid eligibility information</li> <li>• RT 36 - HMO enrollment and disenrollment information</li> <li>• RT 35 - LTC MCO enrollment and disenrollment information</li> </ul> | prd_cares_daily.dat      | DWDCAREP.CAREF.CFM1300A         |
| Daily TCLA and BC+ Basic eligibility referrals to interchange   | prd_cares_51_daily.dat   | DWDCAREP.CAREF.CFM1002A         |
| Every Tuesday night - SSI Medicaid Referrals to interchange   | prd_ssima_weekly.dat     | DWDCAREP.CAREF.SND.E DS.B297TRX |
| Daily FoodShare EBT emergency Benefit file - 3 times a day to EBT Vendor system (if a response was received from the EBT vendor for the corresponding Demographics file)  |                          | DWDCAREP.NDM.CAREF.C FBI700A    |
| Daily FoodShare EBT emergency Demographics file - 3 times a day to EBT Vendor system  |                          | DWDCAREP.NDM.CAREF.C FBI705A    |
| Daily FoodShare benefit file to EBT Vendor system (if a response was received from the EBT vendor for the corresponding Demographics file)  |                          | DWDCAREP.NDM.CAREF.C FBI450A    |
| Daily FoodShare Demographics file to EBT Vendor system  |                          | DWDCAREP.NDM.CAREF.C FBI710A    |
| Monthly FoodShare benefit file (on BI pull down date) to EBT Vendor system  |                          | DWDCAREP.NDM.CAREF.C FBI450B    |

# Production Batch Jobs Execution

**Definition:** Batch jobs run in support of the CARES Mainframe systems

**Scope:** All batch jobs.

## 1. Acceptable Service Level

### Production

SLA Requirement: At least 95% of all jobs in a quarter run within the schedule batch window.

## 2. Reporting Method and Calculations

**Reporting Interval:** Quarterly  
**Units of Measurement:** Number of successful jobs divided by total jobs

Each report will contain the following information:

Total number of production batch jobs for the month

Total number of unsuccessful batch jobs for the quarter including name, with information on the date, time, and completion status of each job

## 3. Liquidated Damages

Liquidated damages for non-compliance with this ASL shall be assessed at \$5,000 per quarter. If Contractor achieves the ASL above in a particular quarter (meaning at least 95% of all jobs in a quarter are completed before the scheduled online availability), Contractor shall be entitled to receive a credit of \$5,000 calculated for each quarter which shall be used to offset any liquidated damages assessed during the term of the Contract for its failure to comply with any of the SLAs set forth herein.

# User Acceptance Test Project Quality

**Definition:** The quality of a project moved to User Acceptance Testing

**Scope:** All projects from Very Small to Very Large.

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## Acceptable Service Level

### Production

#### SLA Requirement:

- No more than 2 Severity One UAT System Defects for each Very Small project (under 100 vendor hours).
- No more than 3 Severity One UAT System Defects for each Small project (100-499 vendor hours).
- No more than 4 Severity One UAT System Defects for each Medium project (500 – 1,999 vendor hours).
- No more than 7 Severity One UAT System Defects for each Large project (2,000 – 7,499 vendor hours)
- For each Very Large projects (over 7,500 vendor hours), no more than 10 Severity One UAT System Defects for projects 7,500-10,000 hours and for projects over 10,000 vendor hours, no more than 10 Severity One UAT System Defects plus an additional 5 Severity One UAT System Defects for every 1000 hours over 10,000. (NOTE: This does not include defects that occurred because of the migration or linking of software in the UAT environment).

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## Reporting Method and Calculations

**Reporting Interval:** Per project  
**Units of Measurement:** Number of Severity One UAT System Defects with respect to a project and total project vendor hours.

#### Reports should include:

Projects in UAT and the associated vendor resource hours. The report will be provided when the UAT phase concludes for that project.

Number of Severity One UAT System Defects identified per project.

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### **Liquidated Damages**

Liquidated damages for non-compliance with this ASL shall be assessed as follows:

- Assessment of \$1,000 for each Very Small project (under 100 vendor hours), Small project (100-499 vendor hours) and Medium project (500 – 1,999 vendor hours).
- Assessment of \$2,000 for each Large project (2,000 – 7,499 vendor hours).
- Assessment of \$5,000 for each Very Large project (over 7,500 vendor hours).

Contractor shall be entitled to receive a credit for each ASL Contractor meets in the following manner: (i) \$1000 for Very Small Projects, Small Projects, and Medium Projects, (ii) \$2000 for Large Projects (iii) \$5000 for Very Large Projects, which shall be calculated for each project and used to offset any liquidated damages assessed during the term of the Contract for Contractor's failure to comply with any of the SLAs set forth herein.

## EXHIBIT B

### **The Standard Terms and Conditions and Supplemental Standard Terms and Conditions for Procurements for Services under Section 9.0 of the Wisconsin Department of Health Services Request for Proposal, dated May 13, 2010 (the "Request for Proposal") as amended and restated**

#### **Standard Terms and Conditions**

"Contractor or "contractor" as such terms are used herein shall refer to Deloitte Consulting LLP. "State", "state" or "State of Wisconsin" as such terms are used herein shall refer to the Wisconsin Department of Health Services. "Contract" or "contract" as such terms are used herein shall refer to the Contract entered into by Deloitte Consulting LLP and Wisconsin Department of Health Services with an effective date of January 1, 2011 and all exhibits and attachments attached thereto. Provisions are notated as Not Applicable either because they are not applicable to this Contract or because their content matter is already covered elsewhere in the Contract.

- 1.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT:**  
**SPECIFICATIONS:** The specifications in this request are the minimum acceptable. When specific manufacturer and model numbers are used, they are to establish a design, type of construction, quality, functional capability and/or performance level desired. When alternates are bid/proposed they must be identified by manufacturer, stock number, and such other information necessary to establish equivalency. The State of Wisconsin shall be the sole judge of equivalency. Bidders/proposers are cautioned to avoid bidding alternates to the specifications which may result in rejection of their bid/proposal.
- 2.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT:**  
**DEVIATIONS AND EXCEPTIONS:** Deviations and exceptions from original text, terms, conditions, or specifications shall be described fully, on the bidder's/proposer's letterhead, signed, and attached to the request. In the absence of such statement, the bid/proposal shall be accepted as in strict compliance with all terms, conditions, and specifications and the bidders/proposers shall be held liable.
- 3.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT:**  
**QUALITY:** Unless otherwise indicated in the request, all material shall be first quality. Items which are used, demonstrators, obsolete, seconds, or which have been discontinued are unacceptable without prior written approval by the State of Wisconsin.
- 4.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT:**  
**QUANTITIES:** The quantities shown on this request are based on estimated needs. The State reserves the right to increase or decrease quantities to meet actual needs.
- 5.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT:**  
**DELIVERY:** Deliveries shall be F.O.B. destination freight prepaid and included unless otherwise specified.
- 6.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT:**  
**PRICING AND DISCOUNT:** The State of Wisconsin qualifies for governmental discounts and its educational institutions also qualify for educational discounts. Unit prices shall reflect these discounts.
  - 6.1** Unit prices shown on the bid/proposal or contract shall be the price per unit of sale (e.g., gal., cs., doz., ea.) as stated on the request or contract. For any given item, the quantity multiplied by the unit price shall establish the extended price, the unit price shall govern in the bid/proposal evaluation and contract administration.
  - 6.2** Prices established in continuing agreements and term contracts may be lowered due to general market conditions, but prices shall not be subject to increase for ninety (90) calendar days from the date of award. Any increase proposed shall be submitted to the contracting agency thirty (30) calendar days before the proposed effective date of the price increase, and shall be limited to fully documented cost increases to the contractor which are demonstrated to be industry wide. The conditions under which price increases may be granted shall be expressed in bid/proposal documents and contracts or agreements.

**6.3** In determination of award, discounts for early payment will only be considered when all other conditions are equal and when payment terms allow at least fifteen (15) days, providing the discount terms are deemed favorable. All payment terms must allow the option of net thirty (30).

**7.0 UNFAIR SALES ACT:** Prices quoted to the State of Wisconsin are not governed by the Unfair Sales Act.

**8.0 ACCEPTANCE-REJECTION:** The State of Wisconsin reserves the right to accept or reject any or all bids/proposals, to waive any technicality in any bid/proposal submitted, and to accept any part of a bid/proposal as deemed to be in the best interests of the State of Wisconsin.

Bids/proposals MUST be date and time stamped by the soliciting purchasing office on or before the date and time that the bid/proposal is due. Bids/proposals date and time stamped in another office will be rejected. Receipt of a bid/proposal by the mail system does not constitute receipt of a bid/proposal by the purchasing office.

**9.0 METHOD OF AWARD:** Award shall be made to the lowest responsible, responsive bidder unless otherwise specified.

**10.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT: ORDERING:** Purchase orders or releases via purchasing cards shall be placed directly to the contractor by an authorized agency. No other purchase orders are authorized.

**11.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT: PAYMENT TERMS AND INVOICING:** The State of Wisconsin normally will pay properly submitted vendor invoices within thirty (30) days of receipt providing goods and/or services have been delivered, installed (if required), and accepted as specified.

Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order including reference to purchase order number and submittal to the correct address for processing.

A good faith dispute creates an exception to prompt payment.

**12.0 TAXES:** The State of Wisconsin and its agencies are exempt from payment of all federal tax and Wisconsin state and local taxes on its purchases except Wisconsin excise taxes as described below.

The State of Wisconsin, including all its agencies, is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. However, it is exempt from payment of Wisconsin sales or use tax on its purchases. The State of Wisconsin may be subject to other states' taxes on its purchases in that state depending on the laws of that state. Contractors performing construction activities are required to pay state use tax on the cost of materials.

**13.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT: GUARANTEED DELIVERY:** Failure of the contractor to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the contractor liable for all costs in excess of the contract price when alternate procurement is necessary. Excess costs shall include the administrative costs.

**14.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT: ENTIRE AGREEMENT:** These Standard Terms and Conditions shall apply to any contract or order awarded as a result of this request except where special requirements are stated elsewhere in the request; in such cases, the special requirements shall apply. Further, the written contract and/or order with referenced parts and attachments shall constitute the entire agreement and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by the contracting authority.

**15.0 APPLICABLE LAW AND COMPLIANCE:** The Contractor shall at all times materially comply with and observe all federal and state laws, local laws, ordinances, and government regulations which are in effect during the period of this contract and which in any manner are applicable to Contractor in its performance of the work hereunder. The State of Wisconsin also reserves the right to cancel this contract with any federally debarred contractor or a contractor that is presently identified on the list of parties excluded from federal procurement and non-procurement contracts.

**16.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT: ANTITRUST ASSIGNMENT:** The contractor and the State of Wisconsin recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Wisconsin

(purchaser). Therefore, the Contractor hereby assigns to the State of Wisconsin any and all claims for such overcharges as to goods, materials or services purchased in connection with this contract.

- 17.0 ASSIGNMENT:** No right or duty in whole or in part of either party under this contract may be assigned without the prior written consent of the other party.
- 18.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT:**  
**WORK CENTER CRITERIA:** A work center must be certified under s. 16.752, Wis. Stats., and must ensure that when engaged in the production of materials, supplies or equipment or the performance of contractual services, not less than seventy-five percent (75%) of the total hours of direct labor are performed by severely handicapped individuals.
- 19.0 NONDISCRIMINATION / AFFIRMATIVE ACTION:** To the extent applicable to the performance of work under this contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Stats., sexual orientation as defined in s. 111.32(13m), Wis. Stats., or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor further agrees to take affirmative action to ensure equal employment opportunities in conformance with its obligations under Executive Order 11246 as a federal government contractor.
- 19.1** Contracts estimated to be over twenty-five thousand dollars (\$25,000) require the Contractor to submit its current applicable written affirmative action plan. An exemption occurs from this requirement if the Contractor has a workforce of less than twenty-five (25) employees. Promptly after the contract is awarded, the Contractor must submit the plan to the contracting state agency for approval.
- 19.2** The Contractor agrees to post in conspicuous places in applicable office locations, available for employees and applicants for employment, a notice to be provided by the contracting state agency that sets forth the provisions of the State of Wisconsin's nondiscrimination law.
- 19.3** Failure to materially comply with the conditions of this clause may result in the Contractor's becoming declared an "ineligible" contractor, termination of the contract for convenience, or withholding of payment.
- 20.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT:**  
**PATENT INFRINGEMENT:** The contractor selling to the State of Wisconsin the articles described herein guarantees the articles were manufactured or produced in accordance with applicable federal labor laws. Further, that the sale or use of the articles described herein will not infringe any United States patent. The contractor covenants that it will at its own expense defend every suit which shall be brought against the State of Wisconsin (provided that such contractor is promptly notified of such suit, and all papers therein are delivered to it) for any alleged infringement of any patent by reason of the sale or use of such articles, and agrees that it will pay all costs, damages, and profits recoverable in any such suit. .
- 21.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT:**  
**SAFETY REQUIREMENTS:** All materials, equipment, and supplies provided to the State of Wisconsin must comply fully with all safety requirements as set forth by the Wisconsin Administrative Code and all applicable OSHA Standards.
- 22.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT:**  
**WARRANTY:** Unless otherwise specifically stated by the bidder/proposer, equipment purchased as a result of this request shall be warranted against defects by the bidder/proposer for one (1) year from date of receipt. The equipment manufacturer's standard warranty shall apply as a minimum and must be honored by the contractor.
- 23.0 INSURANCE RESPONSIBILITY:** The Contractor performing services for the State of Wisconsin shall:
- 23.1** Maintain worker's compensation insurance as required by Wisconsin Statutes, for all employees engaged in the work.
- 23.2** Maintain commercial general liability, bodily injury and property damage insurance against any claim(s) which might occur in carrying out this agreement/contract. Minimum coverage shall be one million dollars (\$1,000,000) liability for bodily injury and property damage including products liability and completed operations. Provide motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out this contract. Minimum coverage shall be one million dollars (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.

**23.3** The State reserves the right to require higher or lower limits where warranted.

**24.0 CANCELLATION:** The State of Wisconsin reserves the right to cancel any contract in whole or in part without penalty due to nonappropriation of funds upon at least ten (10) business days prior written notice.

**25.0 VENDOR TAX DELINQUENCY:** Vendors who have a delinquent Wisconsin tax liability may have their payments offset by the State of Wisconsin.

**26.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT: PUBLIC RECORDS ACCESS:** It is the intention of the State to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities.

Bid/proposal openings are public unless otherwise specified. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract.

**27.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT: PROPRIETARY INFORMATION:** Any restrictions on the use of data contained within a request, must be clearly stated in the bid/proposal itself. Proprietary information submitted in response to a request will be handled in accordance with applicable State of Wisconsin procurement regulations and the Wisconsin public records law. Proprietary restrictions normally are not accepted. However, when accepted, it is the vendor's responsibility to defend the determination in the event of an appeal or litigation.

**27.1** Data contained in a bid/proposal, all documentation provided therein, and innovations developed as a result of the contracted commodities or services cannot be copyrighted or patented. All data, documentation, and innovations become the property of the State of Wisconsin.

**27.2** Any material submitted by the vendor in response to this request that the vendor considers confidential and proprietary information and which qualifies as a trade secret, as provided in s. 19.36(5), Wis. Stats., or material which can be kept confidential under the Wisconsin public records law, must be identified on a Designation of Confidential and Proprietary Information form (DOA-3027). Bidders/proposers may request the form if it is not part of the Request for Bid/Request for Proposal package. Bid/proposal prices cannot be held confidential.

**28.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT: DISCLOSURE:** If a State public official (s. 19.42, Wis. Stats.), a member of a State public official's immediate family, or any organization in which a State public official or a member of the official's immediate family owns or controls a ten percent (10%) interest, is a party to this agreement, and if this agreement involves payment of more than three thousand dollars (\$3,000) within a twelve (12) month period, this contract is voidable by the State unless appropriate disclosure is made according to s. 19.45(6), Wis. Stats., before signing the contract. Disclosure must be made to the State of Wisconsin Ethics Board, 44 East Mifflin Street, Suite 601, Madison, Wisconsin 53703 (Telephone 608-266-8123).

State classified employees and certain University of Wisconsin faculty/staff are subject to separate disclosure requirements.

**29.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT: RECYCLED MATERIALS:** The State of Wisconsin is required to purchase products incorporating recycled materials whenever technically and economically feasible. Bidders are encouraged to bid products with recycled content which meet specifications.

**30.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT: MATERIAL SAFETY DATA SHEET:** If any item(s) on an order(s) resulting from this award(s) is a hazardous chemical, as defined under 29CFR 1910.1200, provide one (1) copy of a Material Safety Data Sheet for each item with the shipped container(s) and one (1) copy with the invoice(s).

**31.0 PROMOTIONAL ADVERTISING / NEWS RELEASES:** Reference to or use of the State of Wisconsin, any of its departments, agencies or other subunits, or any State official or employee for commercial promotion is prohibited. News releases pertaining to this procurement shall not be made without prior approval of the State of Wisconsin. Release of broadcast e-mails pertaining to this procurement shall not be made without prior written authorization of the contracting agency. Notwithstanding the foregoing, the State grants Contractor the right to use its name as part of a general client list and as a specific citation within proposals.

**32.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT: HOLD HARMLESS:** The contractor will indemnify and save harmless the State of Wisconsin and all of its officers, agents and employees from all suits, actions, or claims of any character brought for or on account of

any injuries or damages received by any persons or property resulting from the operations of the contractor, or of any of its contractors, in prosecuting work under this agreement.

- 33.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT:**  
**FOREIGN CORPORATION:** A foreign corporation (any corporation other than a Wisconsin corporation) which becomes a party to this Contract is required to conform to all the requirements of Chapter 180, Wis. Stats., relating to a foreign corporation and must possess a certificate of authority from the Wisconsin Department of Financial Institutions, unless the corporation is transacting business in interstate commerce or is otherwise exempt from the requirement of obtaining a certificate of authority. Any foreign corporation which desires to apply for a certificate of authority should contact the Department of Financial Institutions, Division of Corporation, P. O. Box 7846, Madison, WI 53707-7846; telephone (608) 261-7577.
- 34.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT:**  
**WORK CENTER PROGRAM:** The successful bidder/proposer shall agree to implement processes that allow the State agencies, including the University of Wisconsin System, to satisfy the State's obligation to purchase goods and services produced by work centers certified under the State Use Law, s.16.752, Wis. Stat. This shall result in requiring the successful bidder/proposer to include products provided by work centers in its catalog for State agencies and campuses or to block the sale of comparable items to State agencies and campuses.
- 35.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT:**  
**FORCE MAJEURE:** Neither party shall be liable by reason of any delays or nonperformance of this Contract directly or indirectly resulting from circumstances or causes beyond its reasonable control including, but are not restricted to, acts of nature or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather.

## Supplemental Standard Terms and Conditions for Procurement for Services

"Contractor" as such term is used herein, shall refer to Deloitte Consulting LLP. "State" or "State of Wisconsin" as such term is used herein shall refer to the Wisconsin Department of Health Services. "Contract" or "contract" as such terms are used herein shall refer to the Contract entered into by Deloitte Consulting LLP and Wisconsin Department of Health Services on January 1, 2011 and all exhibits and attachments attached thereto.

- 1.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT:**  
**ACCEPTANCE OF BID/PROPOSAL CONTENT:** The contents of the bid/proposal of the successful contractor will become contractual obligations if procurement action ensues.
- 2.0 CONFIRMATION OF INDEPENDENT PRICE DETERMINATION:** By signing this bid/proposal, the bidder/proposer confirms, to the best of the engagement leader's knowledge, and in the case of a joint bid/proposal, each party thereto confirms as to its own organization, that in connection with this procurement:
- 2.1** The prices in this bid/proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder/proposer or with any competitor;
- 2.2** Unless otherwise required by law, the prices which have been quoted in this bid/proposal have not been knowingly disclosed by the bidder/proposer and will not knowingly be disclosed by the bidder/proposer prior to opening in the case of an advertised procurement or prior to award in the case of a negotiated procurement, to any other bidder/proposer or to any competitor; and
- 2.3** No attempt has been made or will be made by the bidder/proposer to induce any other person or firm to submit or not to submit a bid/proposal for the purpose of restricting competition.
- 2.4** Each person signing this bid/proposal confirms that: He/she is the person in the bidder's/proposer's organization responsible within that organization for the decision as to the prices being offered herein and that he/she has not participated, in any action contrary to 2.1 through 2.3 above; (or)
- He/she is not the person in the bidder's/proposer's organization responsible within that organization for the decision as to the prices being offered herein, but that he/she has been authorized to act as agent for the persons responsible for such decisions in confirming that such persons have not participated in any action contrary to 2.1 through 2.3 above, and as their agent does hereby so confirm; and he/she has not participated, and will not participate, in any action contrary to 2.1 through 2.3 above.
- 3.0 DISCLOSURE OF INDEPENDENCE AND RELATIONSHIP:** Contractor agrees it has no obligations to any third parties, as of the effective date of the Contract, that would prevent Contractor from performing the services; and as of the effective date of the Contract, no relationship exists between the Contractor and the State that would create a conflict under applicable professional standards with respect to this engagement. Contractor further agrees to use reasonable efforts to avoid the provision of services to other clients that would create a conflict of interest under applicable professional standards with respect to Contractor's provision of services hereunder during the term of this engagement with the State. The Department of Administration may waive this provision, in writing, if those activities of the potential contractor will not be adverse to the interests of the State.
- 4.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT:**  
**DUAL EMPLOYMENT:** Section 16.417, Wis. Stats., prohibits an individual who is a State of Wisconsin employee or who is retained as a contractor full-time by a State of Wisconsin agency from being retained as a contractor by the same or another State of Wisconsin agency where the individual receives more than \$12,000 as compensation for the individual's services during the same year. This prohibition does not apply to individuals who have full-time appointments for less than twelve (12) months during any period of time that is not included in the appointment. It does not include corporations or partnerships.
- 5.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT:**  
**EMPLOYMENT:** The contractor will not engage the services of any person or persons now employed by the State of Wisconsin, including any department, commission or board thereof, to provide services for contractor relating to this agreement without the written consent of the employing agency of such person or persons and of the contracting agency.
- 6.0 THE PARTIES AGREE THAT THE FOLLOWING SECTION IS NOT APPLICABLE TO THIS CONTRACT:**

**CONFLICT OF INTEREST:** Private and non-profit corporations are bound by ss. 180.0831, 180.1911(1), and 181.0831 Wis. Stats., regarding conflicts of interests by directors in the conduct of State contracts.

**7.0 RECORDKEEPING AND RECORD RETENTION:** The Contractor shall establish and maintain adequate time records (out of the CARES time tracking system) relating to fees incurred under the contract.

The State shall have the right to audit, review and examine such records relating to fees under this Contract during reasonable business hours and upon prior written notice to Contractor at the State's sole expense. The Contractor will retain all such time records relating to fees which are applicable to the contract for a period of three and one-half (3 1/2 ) years after the expiration or termination of this Contract, or pending resolution of litigation of claims related to such time records between the Contractor and the State, or pending resolution of exception to costs and expenses of this Contract taken by the CMS, DHHS, USDA, OIG, Comptroller General or any of their authorized representatives, (any of which arise during the term of the Contract or during three and one-half (3 1/2) year period after the expiration or termination of this Contract), whichever is later. Any records available to the State under this Section may be redacted by Contractor to the extent necessary to protect its proprietary and confidential information and to avoid any invasion of personal privacy.

**8.0 INDEPENDENT CAPACITY OF CONTRACTOR:** The parties hereto agree that the Contractor, its officers, agents, and employees, in the performance of this contract shall act in the capacity of an independent contractor and not as an officer, employee, fiduciary or agent of the State. The Contractor agrees to take such reasonable steps as may be necessary so that each subcontractor of the contractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the State.

**EXHIBIT C**  
**OTHER TERMS**

In this Exhibit C, Deloitte Consulting LLP is referred to as "Deloitte Consulting". The Wisconsin Department of Health Services is referred to as the "Client".

**1. Services.** Client hereby engages Deloitte Consulting, and Deloitte Consulting hereby accepts the engagement, to provide professional services and deliverables on the terms and conditions set forth in this Contract.

It is understood and agreed that Deloitte Consulting's services as described in Section 4.4 of Deloitte Consulting's Proposal dated July 19, 2010 in response to the Request for Proposal (as defined in Paragraph 17 hereof) (the "Proposal") as well as Section 5 of the Request for Proposal as both have been updated and revised by Exhibit A attached hereto (the "Services") may include advice and recommendations, but all management decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, the Client; provided that, the foregoing shall not relieve Deloitte Consulting's obligations to perform the Services in accordance with this Contract, including the warranty contained in Paragraph 4.

Deloitte Consulting and Client expressly acknowledge and agree that dates set forth in project plans mutually devised by the parties are estimated and expected to be revised. Certain dates, however, may be noted in a project plan as "firm performance dates". Deloitte Consulting agrees to use diligent efforts to meet any estimated dates. Deloitte Consulting agrees to notify Client promptly in writing if it expects or encounters significant delays in completing its Services.

**2. Payment of Invoices.**

a) Deloitte Consulting shall invoice Client on a monthly basis. Upon submission of properly submitted invoices, the State will pay within thirty (30) days of receipt of invoice and comply with the provisions of Wis. Stats. § 16.528 with respect to interest payments on overdue invoices. Without limiting its rights or remedies, Deloitte Consulting shall have the right to halt or terminate the Services entirely if payment is not received within thirty (30) days of the receipt of invoice and such failure to pay by Client remains uncured thirty (30) days after Client's receipt of written notice thereof from Deloitte Consulting.

b) Client acknowledges that temporary living reimbursements to Deloitte Consulting's personnel may be deemed compensatory under federal, state, and local tax laws if such personnel's assignment in a particular location will exceed or has exceeded one year. The parties shall cooperate in good faith to limit the duration of a person's assignment in a particular location to less than one year.

**3. Deliverables.**

a) For purposes of these terms (i) "Technology" means works of authorship, materials, information and other intellectual property; (ii) "Deloitte Consulting Technology" means all Technology created prior to or independently of the performance of the Services, or created by Deloitte Consulting or its subcontractors as a tool for their use in performing the Services, plus any modifications or enhancements thereto and derivative works based thereon; and (iii) "Deliverables" means all Technology (including software or modifications thereof and associated documentation designed, developed or installed with federal financial participation as set forth in 7 CFR 277.18(l)

and 45 C.F.R. 95.617) that Deloitte Consulting or its subcontractors create for delivery to the Client as a result of the Services.

b) Upon full payment to Deloitte Consulting for each Deliverable, and subject to all other terms and conditions herein, Deloitte Consulting hereby (i) assigns to the Client all rights of ownership in and to such Deliverable, except to the extent it includes any Deloitte Consulting Technology; and (ii) grants to the Client the right to use any Deloitte Consulting Technology included in the Deliverable in connection with its use of the Deliverable. Except for the foregoing license grant, Deloitte Consulting or its licensors retain all rights in and to all Deloitte Consulting Technology.

c) To the extent any Deloitte Consulting Technology provided to the Client hereunder is a product (to the extent it constitutes merchandise within the meaning of section 471 of the Internal Revenue Code), such Deloitte Consulting Technology is licensed to the Client by Deloitte Consulting as agent for Deloitte Consulting Product Services LLC on the terms and conditions herein. The assignment and license grant in Paragraph 3(b) do not apply to any Technology (including any modifications or enhancements thereto or derivative works based thereon) that is subject to a separate license agreement between the Client and a third party, including, without limitation, Deloitte Consulting Product Services LLC.

**4. Limitation on Warranties. DELOITTE CONSULTING WARRANTS THAT IT SHALL PERFORM THE SERVICES IN GOOD FAITH AND IN A PROFESSIONAL MANNER CONSISTENT WITH GENERALLY ACCEPTED INDUSTRY STANDARDS FOR THE PERFORMANCE OF SUCH SERVICES.**

**DELOITTE CONSULTING DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE CLIENT'S EXCLUSIVE REMEDY FOR ANY BREACH OF THIS WARRANTY SHALL BE FOR DELOITTE CONSULTING, UPON RECEIPT OF WRITTEN NOTICE, TO USE DILIGENT EFFORTS TO CURE SUCH BREACH, OR, FAILING ANY SUCH CURE IN A REASONABLE PERIOD OF TIME, THE RETURN OF PROFESSIONAL FEES PAID TO DELOITTE CONSULTING HEREUNDER WITH RESPECT TO THE SERVICES GIVING RISE TO SUCH BREACH.**

**5. Limitation on Damages and Indemnification.**

a) Each party agrees that the other party, its subcontractors and their respective personnel shall not be liable for any claims, liabilities, or expenses relating to this Contract ("Claims") for an aggregate amount in excess of (I) the fees paid by Client to Deloitte Consulting pursuant to this Contract over the twelve (12) month period immediately preceding the date on which the act or omission giving rise to the liability first occurs, or (II) \$15 million, whichever is greater, except to the extent finally judicially determined to have resulted primarily from the recklessness, bad faith or intentional misconduct of the other party, its subcontractors or their respective personnel.

In the event of loss of any Client data directly caused by the negligence or intentional misconduct of Deloitte Consulting or its employees who are performing Services hereunder (and for which Deloitte Consulting shall be responsible to the same extent that Deloitte Consulting would be responsible hereunder), Deloitte Consulting's liability for such loss shall be limited to the recovery of the lost data from the Client's supporting electronic backup media or by other methods or means deemed most suitable by Deloitte Consulting for such recovery of such lost data and, to the extent reasonably possible, Deloitte Consulting shall recreate such lost data from available electronic resources of the

Client. The State understands and agrees that it is solely responsible for establishing and maintaining a procedure for backing up its data in accordance with industry standards, and for maintaining procedures for reconstruction and/or recompilation of any and all data lost or destroyed during the Client's use of the CARES System (as defined in Section 5.1 of Exhibit A), or storage of the data.

In no event shall either party, its subcontractors or their respective personnel be liable for any loss of use, data, goodwill, revenues or profits (whether or not deemed to constitute a direct Claim), or any consequential, special, indirect, incidental, punitive or exemplary loss, damage, or expense (including, without limitation, lost profits and opportunity costs), relating to this Contract. The provisions of this Paragraph 6(a) shall not apply to any Claim for which one party has an obligation to indemnify the other or to any Claim for breach of Paragraph 3. In circumstances where all or any portion of the provisions of this Paragraph 5 or Paragraph 8(b) are finally judicially determined to be unavailable, the aggregate liability of each party, its subcontractors and their respective personnel for any Claim shall not exceed an amount which is proportional to the relative fault that their conduct bears to all other conduct giving rise to such Claim.

b) Deloitte Consulting shall indemnify, defend and hold harmless the Client and its personnel from and against any and all Claims attributable to claims of third parties solely for bodily injury, death or damage to real or tangible personal property, to the extent directly and proximately caused by the negligence or intentional misconduct of Deloitte Consulting, its employees, agents and subcontractors while engaged in the performance of the Services; provided, however, that if there also is fault on the part of any entity or individual indemnified hereunder or any entity or individual acting on the Client's behalf, the foregoing indemnification shall be on a comparative fault basis.

c) As a condition to the indemnity obligations set forth in this Paragraph 5, the indemnified party shall provide the indemnifying party with prompt notice of any Claim for which indemnification shall be sought hereunder and shall cooperate in all reasonable respects with the indemnifying party in connection with any such Claim. The indemnifying party shall be entitled to control the handling of any such Claim and to defend or settle any such Claim, in its sole discretion, with counsel of its own choosing. The indemnifying party, however, may not agree to any settlement other than the payment of money or the release of any Claim without the indemnified party's written consent, which shall not be unreasonably withheld.

d) Deloitte Consulting agrees to indemnify, defend and hold harmless Client, its officers and employees from and against any and all Claims attributable to claims of third parties for infringement by a Deliverable of any U.S. patent or copyright or any unauthorized use of any trade secret, except to the extent that such infringement or unauthorized use arises from, or could have been avoided except for (i) the indemnified party's modification of the Deliverable or use thereof in a manner not contemplated by Exhibit A, (ii) the failure of the indemnified party to use any corrections or modifications made available by Deloitte Consulting, (iii) information, materials, instructions or specifications provided by or on behalf of the indemnified party, or (iv) the use of the Deliverable in combination with any product or data not provided by Deloitte Consulting unless Deloitte Consulting consented to such use in writing. If Client's use of any such Deliverable, or any portion thereof, is or is likely to be enjoined by order of a court of competent jurisdiction as such an infringement or unauthorized use, Deloitte Consulting, at its option and expense, shall have the right to (x) procure for Client the continued use of such Deliverable, (y) replace such Deliverable with a non-infringing Deliverable, or (z) modify such Deliverable so it becomes non-infringing; provided that, if (y) or (z) is the option chosen by Deloitte Consulting, the replacement or modified Deliverable is capable of performing substantially the same function. The foregoing provisions of this paragraph constitute the sole and exclusive remedy of the indemnified parties, and the sole and exclusive obligation of

Deloitte Consulting, relating to a claim that any of Deloitte Consulting's Deliverables infringes any patent, copyright or other intellectual property right of a third party.

e) The Client declares, and Deloitte Consulting acknowledges, that the Client may suffer certain damages as a result of Deloitte Consulting's breach of Section 8(c) of this Contract. Because certain of those damages are not calculable with any degree of certainty, the parties agree that damages sustained from the following occurrences shall be in the amount set forth in this section as liquidated damages and not as a penalty.

The Client will notify Deloitte Consulting in writing of the assessment of liquidated damages. Deloitte Consulting shall not be liable for liquidated damages when the cause is not solely the responsibility of Deloitte Consulting or results from a cause beyond the reasonable control of Deloitte Consulting (including, without limitation, the acts or omissions of, or the failure to cooperate by, the State or any third parties that are not subcontractors or agents of Deloitte Consulting).

Personally Identifiable Information. If an unauthorized use, disclosure or loss (other than an unintended deletion) of Personally Identifiable Information (PII) (as such term is defined in Section 8(c)(i) hereof) occurs that makes identity theft possible, and results from a breach of Section 8(c) by Deloitte Consulting, the parties agree that Client may assess Deloitte Consulting liquidated damages in the amount of \$250.00 for each individual whose PII was used, disclosed or lost (excluding an unintended deletion), not to exceed an aggregate amount of Two and Fifty Thousand Dollars (\$250,000.00). If Deloitte Consulting fails to substantially comply with a Corrective Action Plan as such term is defined under Section 8(c), Client must provide fourteen (14) days written notice of Deloitte Consulting's failure to substantially comply with such Corrective Action Plan and if Deloitte Consulting does not remedy such failure within such fourteen (14) day period, the parties agree that Client may assess Deloitte Consulting liquidated damages in the amount of \$2500.00 for each day that Deloitte Consulting failed to substantially comply with such Corrective Action Plan, beginning with the first day that it failed to substantially comply and not to exceed an aggregate amount of Two and Fifty Thousand Dollars (\$250,000.00).

Except for Deloitte Consulting's obligation to reimburse the Client for its reasonable and direct out-of-pocket costs of (I) Client's notification of affected individuals who are required by law to receive such notification and (II) credit monitoring and identity theft insurance for such individuals, to the extent required by Section 8(c)(iii) hereof, the assessment of liquidated damages set forth in this Section 5(e) shall constitute the sole and exclusive remedy of the State, and the sole and exclusive obligation of the Contractor, with respect to any claim arising out of Deloitte Consulting's breach of any of its obligations under Section 8(c) hereof.

**6. Client Responsibilities.** The Client shall cooperate with Deloitte Consulting hereunder, including, without limitation, (i) providing Deloitte Consulting with timely access to data, information and personnel of the Client; (ii) providing experienced and qualified personnel having appropriate skills to perform their assigned tasks and duties in a competent and timely fashion; (iii) providing a stable, fully functional system infrastructure environment which will support the Services and allow Deloitte Consulting and Client to work productively; and (iv) promptly notifying Deloitte Consulting of any issues, concerns or disputes with respect to the Services. The Client shall be responsible for the performance of its personnel and agents and for the accuracy and completeness of data and information provided to Deloitte Consulting for purposes of the performance of the Services. The Client acknowledges and agrees that Deloitte Consulting's performance is dependent upon the timely and effective satisfaction of the Client's responsibilities hereunder and timely decisions and approvals of the Client in connection with the Services. Deloitte Consulting shall be

entitled to rely on all decisions and approvals of the Contract Administrator of the Client or his or her designee, provided that the Contract Administrator notifies Deloitte Consulting by email or other written notice that such Contract Administrator has delegated authority to such designee. The Client shall be solely responsible for, among other things: (i) making all management decisions and performing all management functions; (ii) designating a competent management member to oversee the Services; (iii) evaluating the adequacy and results of the Services; and (iv) establishing and maintaining internal controls, including, without limitation, monitoring ongoing activities.

**7. Limitation on Actions.** No action, regardless of form, relating to this engagement, may be brought by either party more than three (3) years after the cause of action has accrued, except that an action for non-payment may be brought not later than three (3) years following the date of the last payment due to the party bringing such action.

**8. Confidentiality and Use.**

**PARTIES' CONFIDENTIAL INFORMATION**

a) To the extent that, in connection with this Contract, either party (each, the "receiving party") comes into possession of any trade secrets or other proprietary or confidential information of the other (the "disclosing party"), it will not disclose such information to any third party without the disclosing party's consent. The preceding sentence does not apply to Client to the extent that a third party requests records containing such information and the records are required to be disclosed under the Wisconsin Public Records Law at Wis. Stat. § 19.31, et. seq. Client will notify Deloitte Consulting of such request at least ten (10) business days before the records are released and Deloitte Consulting shall have the opportunity to contest such release of records within such ten (10) business day period or during the pendency of a court action that Deloitte Consulting may commence to restrain the release. The disclosing party hereby consents to the receiving party disclosing such information (i) to subcontractors, whether located within or outside of the United States, that are providing services in connection with this Contract and that have agreed to be bound by confidentiality obligations similar to those in this Paragraph 8(a), (ii) as may be required by law, regulation, judicial or administrative process, or in accordance with applicable professional standards or rules, or in connection with litigation pertaining hereto, or (iii) to the extent such information (A) shall have otherwise become publicly available (including, without limitation, any information filed with any governmental agency and available to the public) other than as the result of a disclosure in breach hereof, (B) becomes available to the receiving party on a non-confidential basis from a source other than the disclosing party which the receiving party believes is not prohibited from disclosing such information by obligation to the disclosing party, (C) is known by the receiving party prior to its receipt from the disclosing party without any obligation of confidentiality with respect thereto, or (D) is developed by the receiving party independently of any disclosures made by the disclosing party to the receiving party of such information. In satisfying its obligations under this Paragraph 8(a), each party shall maintain the other's trade secrets and proprietary or confidential information in confidence using at least the same degree of care as it employs in maintaining in confidence its own trade secrets and proprietary or confidential information, but in no event less than a reasonable degree of care. Notwithstanding anything to the contrary herein, the Client acknowledges that Deloitte Consulting, in connection with performing the Services, may develop or acquire experience, skills, knowledge and ideas that are retained in the unaided memory of its personnel. The Client acknowledges and agrees that Deloitte Consulting may use and disclose such experience, skills, knowledge and ideas.

b) The Client agrees that neither the Services nor any Deliverables are intended for the express or implied benefit of any person or entity other than the Client. The Client further agrees that the

Services and Deliverables shall not be disclosed, in whole or in part, to any person or entity other than (i) the Client, (ii) other contractors of the Client, to whom the Client may disclose the Deliverables solely for the purpose of providing services to the Client, provided that such other contractors shall not disclose the Deliverables to any person or entity, (iii) any other person or entity upon the prior written consent of Deloitte Consulting's engagement leader, which shall not be unreasonably withheld, or (iv) to the extent required by law. To the extent not prohibited by Wis. Stats. ss. 893.82 and 895.46(1), the Client shall indemnify and hold harmless Deloitte Consulting, its subcontractors and their respective personnel from all Claims arising from the Client's disclosure of the Deliverables to any third party.

**c) Personally Identifiable Information**

The following provisions impose confidentiality requirements for Personally Identifiable Information contained in case files accessible through CARES.

(i) Definitions

"Personally Identifiable Information" means an individual's last name and the individual's first name or first initial, in combination with and linked to any of the following elements, if the element is not publicly available information and is not encrypted, redacted, or altered in any manner that renders the element unreadable: (a) the individual's Social Security number; (b) the individual's driver's license number or state identification number; (c) the individual's date of birth; (d) the number of the individual's financial account, including a credit or debit card account number, or any security code, access code, or password that would permit access to the individual's financial account; (e) the individual's DNA profile; or (f) the individual's unique biometric data, including fingerprint, voice print, retina or iris image, or any other unique physical characteristic. Such information shall be limited to the information that Client provides to Deloitte Consulting or Deloitte Consulting otherwise acquires from or on behalf of Client for the purpose of Deloitte Consulting's use of such information in the performance of its Services. For the purposes of this Contract, Personally Identifiable Information shall not include Protected Health Information as such term is defined by the Health Insurance Portability and Accountability Act of 1996.

"Corrective Action Plan" means a plan mutually agreed upon by the parties for Deloitte Consulting to follow in the event of any actual, or the reasonable belief of any, use or disclosure of any Personally Identifiable Information that is not authorized by this Contract, or in the event that any Personally Identifiable Information is lost (excluding an unintended deletion) by Deloitte Consulting.

(ii) Duty of Non-Disclosure and Security Precautions

Deloitte Consulting shall not use Personally Identifiable Information for any purpose other than the limited purposes set forth in the Contract which are in connection with the performance of Services hereunder. Deloitte Consulting shall hold the Personally Identifiable Information in confidence, and shall not disclose, except with Client's prior consent, such Personally Identifiable Information to any persons other than those directors, officers, employees, agents, and subcontractors ("Representatives") who have a business-related or legal need to have access to such Personally Identifiable Information in furtherance of the limited purposes of this Contract and who have been apprised of, and agree to maintain, the confidential nature of such information in accordance with the terms of this Contract. Deloitte Consulting shall be responsible for the breach of this Contract by any of its Representatives performing Services to the same extent that Deloitte Consulting would be responsible hereunder. Such Personally Identifiable Information may be disclosed as may be required by law, regulation, judicial or administrative process, or in connection with litigation pertaining hereto.

Deloitte Consulting shall institute and/or maintain such procedures as are reasonably required to maintain the confidentiality of the Personally Identifiable Information, and shall apply the same level of care as it employs to protect its own personally identifiable information of like nature.

(iii) Unauthorized Use, Disclosure, or Loss

If Deloitte Consulting becomes aware of any actual use or disclosure of any Personally Identifiable Information that is not authorized by this Contract, or has the reasonable belief that there has been a use or disclosure of any Personally Identifiable Information that is not authorized by this Contract, or if any Personally Identifiable Information is lost (excluding an unintended deletion), Deloitte Consulting shall notify Contract Administrator promptly after Deloitte Consulting becomes aware of such unauthorized use or disclosure, or loss, but no later than within one business day after the engagement principal becomes aware of such unauthorized use or disclosure, or loss. Such notice shall include, to the best of the Deloitte Consulting engagement principal's knowledge at that time, the persons affected, their identities, and the Personally Identifiable Information disclosed.

If an unauthorized use, disclosure or loss (other than an unintended deletion) of Personally Identifiable Information results from a breach by Deloitte Consulting of the terms of this Section 8(c), Deloitte Consulting shall take prompt commercially reasonable steps to minimize the risk of another such unauthorized use, disclosure, or loss or to mitigate any harmful effects of such unauthorized use, disclosure, or loss. Deloitte Consulting shall reasonably cooperate with the Client's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such actual breach, or to recover its Personally Identifiable Information, including complying with a reasonable Corrective Action Plan as mutually agreed to by the parties.

If the unauthorized use, disclosure, or loss (other than an unintended deletion) of Personally Identifiable Information results from a breach by Deloitte Consulting of the terms of this Section 8(c), Deloitte Consulting shall reimburse the Client for its reasonable and direct out-of-pocket costs of (I) its notification of affected individuals who are required by law to receive such notification and (II) credit monitoring (including identity theft insurance for affected individuals) for no more than a period of one year from the date an individual enrolls in credit monitoring, if such Personally Identifiable Information includes information that makes identity theft possible (e.g., social security numbers with other identifiers, but not patient treatment records alone).

Equitable Relief. Deloitte Consulting acknowledges and agrees that the unauthorized use, disclosure, or loss (other than an unintended deletion) of Personally Identifiable Information may cause immediate and irreparable injury to the individuals whose information is disclosed and to the Client, which injury may not be compensable by money damages and for which there may not be an adequate remedy available at law. Accordingly, the parties specifically agree that the Client, on its own behalf or on behalf of the affected individuals, shall be entitled to seek injunctive or other equitable relief to prevent or curtail any such breach, threatened or actual, without posting security and without prejudice to such other rights as may be available under this Contract or under applicable law.

Nothing in this Contract shall make Deloitte Consulting responsible for any security controls used (or that should have been used) with respect to the equipment or information systems of the Client; as such controls shall be the responsibility of the Client.

9. **Survival and Interpretation.** All terms of this Contract which by their language or nature would survive the expiration or termination of this Contract, shall survive. This includes all Paragraphs herein relating to payment of invoices, deliverables, limitation on warranties, limitation on damages and indemnification, limitation on actions, confidentiality and use, survival and

interpretation, assignment and subcontracting, non-exclusivity, non-solicitation, waiver of jury trial, and governing law. The provisions of Paragraphs 5, 7, 8(b), 9, 13 and 15 hereof shall apply to the fullest extent of the law, whether in contract, statute, tort (such as negligence), or otherwise, notwithstanding the failure of the essential purpose of any remedy.

**10. Assignment and Subcontracting.** Except as provided below, neither party may assign, any of its rights or obligations hereunder (including, interests or Claims) without the prior written consent of the other party. Client hereby consents to Deloitte Consulting subcontracting any portion of the Services to any affiliate, whether located within or outside the United States. Services performed hereunder by Deloitte Consulting's subcontractors shall be invoiced as professional fees on the same basis as Services performed by Deloitte Consulting's personnel, unless otherwise agreed. Deloitte Consulting shall be responsible for the actions of its subcontractors under this engagement in connection with their performance of services hereunder to the same extent that Deloitte Consulting would be responsible to Client if it had performed such services.

**11. Non-exclusivity.** The parties acknowledge that Deloitte Consulting shall have the right to (i) provide consulting or other services of any kind or nature whatsoever to any person or entity as Deloitte Consulting in its sole discretion deems appropriate, subject to Paragraph 3.0 of the Standard Terms and Conditions in Exhibit B, or (ii) use any works of authorship or other intellectual property that may be included in the Deliverables, to develop for itself, or for others, materials or processes that may be similar to those produced as a result of the Services.

**12. Non-solicitation.** During the term of this Contract, each party agrees that its personnel (in their capacity as such) who had direct and substantive contact in the course of this engagement with personnel of the other party shall not, without the other party's consent, directly or indirectly employ, solicit, engage or retain the services of such personnel of the other party. In the event a party breaches this provision, the aggrieved party shall be entitled to seek injunctive or other equitable relief. This provision shall not restrict the right of either party to solicit or recruit generally in the media or generally through other employment announcements.

**13. Waiver of Jury Trial. THE PARTIES HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM RELATING TO THIS CONTRACT.**

**14. Notices.** All notices hereunder shall be (i) in writing, (ii) delivered to the representatives of the parties at the addresses set forth below, unless changed by either party by notice to the other party, and (iii) effective upon receipt.

To Deloitte Consulting: Deloitte Consulting LLP  
111 S. Wacker Drive  
Chicago, Illinois 60606-4301  
Facsimile: (312) 247-5230  
Attn: Jeffrey Bradfield, Principal

With a copy to: Jeffrey Bradfield, Principal  
Deloitte Consulting LLP  
433 West Washington Ave  
Madison, Wisconsin 53703

To Client: WI Department of Health Services  
Attn: James Jones

1 West Wilson Street, Rm 350  
Madison, WI 53703

**15. Governing Law; and Severability.** This Contract, including exhibits, and all matters relating to this engagement, shall be governed by, and construed in accordance with, the laws of the State of Wisconsin (without giving effect to the choice of law principles thereof). If any provision of this Contract or any exhibits are found by a court of competent jurisdiction to be unenforceable, such provision shall not affect the other provisions, but such unenforceable provision shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permissible the intent of the parties set forth herein. Any legal proceedings will be brought in a state or federal court of competent jurisdiction in Dane County, Wisconsin.

**16. Approval of Deliverables.**

a) All Deliverables prepared by Deloitte Consulting shall have the written approval of Client's project director or his or her written designee that such Deliverables comply in all material respects with the requirements set forth in the relevant work plan or as otherwise agreed upon by the parties in writing (the "Specifications"), which approval shall not be unreasonably withheld.

b) Client shall complete its review of a Deliverable in not more than the number of business days that is specified in the relevant work plan or as otherwise agreed upon by the parties in writing for Client review of such Deliverable. If not specifically identified therein, then the number of business days for any Client review of a Deliverable shall be no more than ten (10) business days. Client shall provide Deloitte Consulting (i) with approval of the Deliverable or (ii) with a written statement, as provided below, of the deficiencies preventing approval. Such business days shall be counted from and include the first business day following the delivery of the Deliverable to Client.

c) Client's review and approval of Deliverables shall be solely for the purpose of determining compliance in all material respects with the Specifications and not for any other purpose, including, without limitation, format or style of the Deliverables or the incorporation at that time of additional ideas or functionality. Approval shall be granted if the Deliverable conforms in all material respects to the Specifications. In the event of Client's rejection of a Deliverable, Client shall provide a complete and written statement which identifies in reasonable detail, with references to the Specifications, all deficiencies.

d) Deloitte Consulting shall complete all corrective actions or changes in order for such Deliverable to conform in all material respects with the Specifications in not more than the number of business days that is specified in the relevant work plan or as otherwise agreed upon by the parties in writing. If not specifically identified therein, Deloitte Consulting shall have twenty (20) business days to complete all such corrective actions or changes. The count of such business days shall begin on the first business day following Deloitte Consulting's receipt of the written statement of required corrective actions or changes as set forth in subparagraph (b) of this Paragraph.

e) Client shall complete a review of the corrective actions or changes made to the Deliverable in response to Client's written statement of deficiencies as set forth in subparagraph (b) of this Paragraph and notify Deloitte Consulting in writing of acceptance or rejection in the number of business days that is specified in the relevant work plan or as otherwise agreed upon by the parties in writing. If not specifically identified therein, Client shall have ten (10) business days to complete a review and notify Deloitte Consulting in writing. The count of such days shall begin on the first business day after Client receives the corrected or changed Deliverable from Deloitte Consulting. Client's review and approval of such corrected or changed Deliverable shall be solely for the purpose

of determining that corrections have been made to bring the Deliverables into compliance in all material respects with the Specifications and not for any other purpose, including, without limitation, for format, style or the incorporation of additional ideas or functionality.

f) Client and Deloitte Consulting may mutually agree in writing to extend the period of time allotted for any review, correction or change under this Paragraph. Any such extension of time shall extend the schedule for subsequent Deliverables by a corresponding amount.

g) Notwithstanding the provisions of Paragraphs 16(a) through 16(f), approval of a Deliverable shall be deemed given by Client if Client has not delivered to Deloitte Consulting a notice of deficiencies in writing for such Deliverable prior to the expiration of any period for Client review thereof as set forth in this Paragraph, or if Client uses the Deliverable in production. Notwithstanding the foregoing provisions of this Paragraph, approval of corrective actions or changes with respect to a Deliverable shall be deemed given by Client if Client has not rejected in writing, in accordance with this Paragraph, such corrective actions or changes with respect to such Deliverables prior to the expiration of any period for Client review thereof as set forth in this Paragraph. Approvals will be deemed under this Paragraph only if Deloitte Consulting has given Client at least two (2) business days notice in advance of the expiration of these periods that approval will be deemed under this Paragraph.

h) To the extent that any Deliverables have been approved by Client at any stage of Deloitte Consulting's performance hereunder, Deloitte Consulting shall be entitled to rely on such approval for purposes of all subsequent stages of Deloitte Consulting's performance hereunder. Upon Client's approval of each Deliverable, Client agrees that, in the event of a contradiction between Specifications for such Deliverable and the approved Deliverable, the contradiction shall be resolved by the approved Deliverable controlling.

i) If Client rejects a Deliverable after its review under subparagraph (e) of this Paragraph, all corrective actions or changes that Deloitte Consulting may subsequently make in order for such Deliverable to conform in all material respects with the Specifications will be provided at no charge to Client.

j) If Deloitte Consulting is unable to correct any deficiency in a Deliverable within the period of time set forth above or as otherwise agreed upon in writing by the parties, Client shall be entitled, at its option, to a refund or credit of professional fees paid to Deloitte Consulting hereunder with respect to the Services giving rise to the claimed deficiency and this shall be Client's sole and exclusive remedy, and Deloitte Consulting's sole and exclusive obligation, with respect to any claim that the Deliverables do not conform to the terms of this Contract.

## **17. Request for Proposal.**

The Standard Terms and Conditions and Supplemental Standard Terms and Conditions for Procurements for Services under Section 9.0 of the Wisconsin Department of Health Services Request for Proposal, RFP #1681DHCAA-BC dated May 13, 2010 and Amendments I, II, and III thereto (the "Request for Proposal"), are amended and restated in Exhibit B to this Contract, which is attached hereto and incorporated by reference herein.

## **18. Miscellaneous.**

The parties agree that Sections 8.3 (Executed Contract to Constitute Entire Agreement), 8.4 (Federal Inspections), 8.6 (Foreign Corporation), 8.7 (Inspection of Work Performed), 8.8 (Legal

Relations) 8.10 (Minority Business Subcontractors), 8.12 (Prime Contractor Responsibility), 8.13 (Settlement of Disputes), 8.14 (Responsibilities upon Termination), 8.15 (Right to Publish), 8.16 (Severability), 8.17 (Site Rules and Regulations), and 8.18 (Software Ownership) of the Special Contract Terms and Conditions in the Request for Proposal do not apply to this Contract. In addition, Sections 4.7, 5.0, 7.4, 8.1 (Contract Administrator), 8.2 (Cooperation During Transition), 8.5 (Fixed Price Deliverables), 8.9 (Liquidated Damages), 8.11 (Personnel Changes), and 8.19 (System Changes) and Appendix E of the Request for Proposal shall be amended and restated in Exhibit A to this Agreement, which is attached hereto and incorporated by reference herein.

**19. Sovereign Immunity.**

Nothing in this Contract shall be construed to constitute a waiver of the Client's sovereign immunity.