

**Iowa Office of the Chief Information Officer
Contracts Declaration & Execution ("CD&E")**

Title of Contract: Carahsoft Salesforce DIR Master Technology Agreement ("Agreement")		Contract Number: 2021BUS1026
State Agency's Name: Iowa Office of the Chief Information Officer ("OCIO")		
Vendor's Name: Carahsoft Technology Corporation ("Vendor").		
Contract to Begin/Effective Date: Date of last signature below	Date of Expiration: October 30, 2022	Annual Extensions: Up to three (3) Annual One Year Renewals consistent with the Contract Expiration Date set forth in the Underlying Agreement.
<p><u>Documents Incorporated/Order of Precedence.</u> This Agreement and all attachments identified below are incorporated by this reference as if fully set forth herein and together comprise the terms and conditions governing the relationship between the Parties. In the event of any conflict or inconsistency between the various provisions of this Agreement and attachments to this Agreement, such conflict or inconsistency shall be resolved in the following order:</p> <ol style="list-style-type: none"> 1. First by giving preference, in no particular order, to the Iowa Department of Human Services Business Associate Agreement attached hereto as Exhibit B ("BAA"), contract language for general services and information technology services extracted from IRS Publication 1075, Exhibit 7, and attached hereto as Exhibit C ("IRS Pub1075"), and the Flow-down of Social Security Administration Data Exchange Agreements with the State of Iowa attached hereto as Exhibit D (the "SSA Flowdown"); 2. Second by giving preference to the supplemental terms and conditions attached hereto as Exhibit A ("Supplemental"); 3. Third by giving preference to the competitively procured contract leveraged and thereby forming the basis of this Agreement the Texas Department of Information Resources Contract Number DIR-TSO-4288 ("Underlying Agreement"). 4. Fourth by giving preference to specific provisions of the RFP; 5. Fifth by giving preference to the Proposal; 6. Sixth by giving preference to the terms of any Purchasing Instruments executed between the parties or a Participating Agency and incorporated into this Agreement by reference in the applicable Purchasing Instrument. 		
<p><u>Notes:</u></p> <p>This Agreement does not guarantee any minimum level of purchases, usage, or compensation;</p> <p>This Agreement is available to any Governmental Entity, including State Agencies and political subdivisions, in the State of Iowa;</p> <p>Exhibit B to this Agreement shall only apply when identified, in writing, by a Purchasing Entity</p>		

Exhibit C to this Agreement shall only apply when identified, in writing, by a Purchasing Entity
Exhibit D to this Agreement shall only apply when identified, in writing, by a Purchasing Entity

IN WITNESS WHEREOF, in consideration of the mutual covenants set forth in this Agreement and for other good and valuable consideration, the receipt, adequacy, and legal sufficiency of which are hereby acknowledged, the Parties have entered into this Agreement and have caused their duly authorized representatives to execute this Agreement.

Vendor: Carahsoft Technology Corporation

By (Authorized Signature)

DocuSigned by:
Craig P. Abod
194A3E2F43CC436...

Date Signed

12/10/2021

Printed Name and Title of Person Signing:

Craig P. Abod, President

Address:

11493 Sunset Hills Rd., Suite 100
Reston, VA 20190

State of Iowa, acting by and through the Iowa Office of the Chief Information Officer:

By (Authorized Signature)

Matt Behrens

Date Signed

12/16/2021

Printed Name and Title of Person Signing:

~~XXXXXX~~

Matt Behrens, Interim Director

Address:

200 E. Grand Ave.
Des Moines, IA 50309

Exhibit A

Supplemental

This Agreement is effective as of the Effective Date by and between the State of Iowa, acting by and through the Iowa Office of the Chief Information Officer (“**OCIO**”), with its principal place of business at 200 E. Grand Avenue, Des Moines, IA 50309 and Carahsoft Technology Corporation, (“**Vendor**”), with its principal place of business at 11493 Sunset Hills Road, Suite 100, Reston, VA 20190. The parties may be referred to herein individually as a “**Party**” or collectively as the “**Parties**”; provided, however, that where the context clearly requires, the term “**Party**” or “**Parties**” may refer to or include the Governmental Entity making individual purchase(s) hereunder.

1. **Authorities.** Iowa Code section 8B.24(5)(c) authorizes the Office of the Chief Information Officer of the State of Iowa (“**OCIO**”) to, “on its own behalf or on the behalf of another participating agency or governmental entity,” (respectively “Participating Agency” and “Governmental Entity”) “. . . procure information technology by leveraging an existing competitively procured contract.” Pursuant to this authority, this Agreement is for the purchase of the Information Technology Products and Services further identified herein. The competitively procured contract leveraged and thereby forming the basis of this Agreement is Texas Department of Information Resources (“**DIR**”) Contract Number DIR-TSO-4288, available at: <https://dir.texas.gov/contracts/dir-tso-4288>. Contract number DIR-TSO-4288, including any and all amendments, attachments, schedules, exhibits, or other like documents thereto or associated therewith, including any request for proposal/bid (or other like document) (“**RFP**”) and any response of Vendor thereto (“**Proposal**”), (collectively referred to herein as the “**Underlying Agreement**”) is incorporated by reference as if fully set forth herein.
2. **Construction and Application of Underlying Agreement.** The Participating Agency and/or Governmental Entity executing Purchasing Instruments hereunder shall be afforded all of the rights, privileges, warranties, and indemnifications afforded to DIR, and such rights, privileges, warranties, and indemnifications shall accrue and apply with equal effect to the Participating Agency and/or Governmental Entities making purchases hereunder. For purposes of this Agreement, where reference is made in the Underlying Agreement to rights conferred upon the State of Texas such provisions shall be read to confer equal rights upon the State of Iowa. Such a construction shall specifically apply to provisions where reference is made to coordination or concurrence with the State of Texas Office of the Attorney General, in which case it shall be read to mean the State of Iowa Office of the Attorney General.
3. **Related Agreements.** Notwithstanding the foregoing, or anything else in the Underlying Agreement (including, solely to the extent legally and validly incorporated into the Underlying Agreement, any shrink-wrap, click-wrap, browser-wrap, privacy policies, online terms, or any terms incorporated or embedded in any programs, software, or the like) to the contrary, any software, program, infrastructure, platform, or other licenses, including any subscription licenses, shall continue beyond any expiration or termination of the Underlying Agreement in accordance with the underlying license term and in accordance with the terms and conditions of this Agreement, unless and until such license is terminated for cause, and solely to the extent such license is paid for in accordance with the terms of this Agreement.
4. **Responsibility of Participating Agency.** The Participating Agency as identified in a purchasing instrument, service work order, or other similarly titled scope document (“**Purchasing Instrument**”) executed hereunder shall be solely responsible for any payments due and duties and obligations otherwise owed Vendor under the Purchasing Instrument and this Agreement. In addition, notwithstanding any other provision of the Underlying Agreement to the contrary, OCIO bears no obligation or liability for the Participating Agency’s losses, liabilities, or obligations, including Vendor’s failure to perform, arising out of or relating in any way to the Purchasing Instrument or this Agreement.

5. **Payment Terms.** Notwithstanding anything in the Underlying Agreement to the contrary, the Participating Agency shall pay all undisputed amounts set forth in approved invoices in arrears and in conformance with Iowa Code Section 8A.514 and 11 Iowa Admin. Code 41.1(2). The Participating Agency may pay in less than sixty (60) days, as provided in Iowa Code Section 8A.514. However, an election to pay in less than sixty (60) days shall not act as an implied waiver of Iowa Code Section 8A.514. Notwithstanding, the Participating Agency, in its sole discretion, may elect to prepay fees for services and deliverables in accordance with applicable laws, rules, policies, and procedures, including State of Iowa Accounting Policies and Procedures, available at: <https://das.iowa.gov/state-accounting/sae-policies-procedures-manual>.
6. **Confidentiality.**
- 6.1. **Definition.** “Confidential Information” means, subject to any applicable federal, state, or local laws and regulations, including Iowa Code Chapter 22, any confidential or proprietary information or trade secrets disclosed by either Party (“Disclosing Party”) to the other Party (“Receiving Party”) that, at the time of disclosure, is designated as confidential (or like designation), is disclosed in circumstances of confidence, or would be understood by the Parties, exercising reasonable business judgment, to be confidential. Confidential Information does not include any information that: (i) was rightfully in the possession of the Receiving Party from a source other than the Disclosing Party prior to the time of disclosure of the information by the Disclosing Party to the Receiving Party; (ii) was known to the Receiving Party prior to the disclosure of the information by the Disclosing Party; (iii) was disclosed to the Receiving Party without restriction by an independent Third Party having a legal right to disclose the information; (iv) is in the public domain or shall have become publicly available other than as a result of disclosure by the Receiving Party in violation of this Agreement or in breach of any other agreement with the Disclosing Party; (v) is independently developed by the Receiving Party without any reliance on Confidential Information disclosed by the Disclosing Party; (vi) is disclosed or is required or authorized to be disclosed pursuant to law, rule, regulation, subpoena, summons, or the order of a court, lawful custodian, governmental agency, or regulatory authority, or by applicable regulatory or professional standards; or (vii) is disclosed by the Receiving Party with the written consent of the Disclosing Party.
- 6.2. **Confidentiality Generally.** Notwithstanding anything in the Underlying Agreement to the contrary, any duties or obligations as it relates to any terms and conditions requiring the Participating Agency to maintain Vendor’s information in confidence shall be subject to and limited by applicable State laws, rules and regulations, including, without limitation, Iowa Code Chapter 22, and fair information practices rules. The Participating Agency shall not be in breach of the Underlying Agreement for any failure to comply with any provision relating to confidential information if the Participating Agency is complying with or attempting to comply with any such laws, rules, and regulations in so doing. In addition, and notwithstanding anything in the Underlying Agreement to the contrary, the Participating Agency may disclose Vendor’s Confidential Information:
- 6.2.1. Pursuant to any legal, judicial, regulatory, or administrative proceedings, subpoena, summons, deposition, interrogatory, requests for documents, order, ruling, civil investigative demand, or other legal, administrative or regulatory processes;
- 6.2.2. Pursuant to any applicable laws, rules, or regulations;
- 6.2.3. If the Participating Agency reasonably determines such information is not a confidential record pursuant to Iowa Code Section 22.7 or other applicable laws, rules, and regulations; or
- 6.2.4. If the Participating Agency determines Vendor has not provided or is unwilling to provide facts sufficient to enable the Participating Agency to make a determination as to

whether such information constitutes a confidential record under Iowa Code Section 22.7 or other applicable laws, rule, and regulations.

Prior to disclosing any of Vendor's Confidential Information as permitted above, the Participating Agency shall provide reasonable notice to Vendor of the circumstances giving rise to such disclosure. Notwithstanding the foregoing, Vendor shall not disclose Confidential Information from the Nation Directory of New Hire ("NDNH"), the Federal Parent Locator Service ("FPLS"), the Federal Case Registry ("FCR"), the Financial Institution Data Match ("FIDM"), Agreements with the Office of Child Support Enforcement ("OCSE"), or covered under Title IV-D of the Social Security Act, 45 CFR § 303.21 Safeguarding and disclosure of confidential information.

The Participating Agency shall remain the sole and exclusive owner of any and all information supplied or provided by it, directly or indirectly, to Vendor in connection with this purchase, including by or through the use of any programs, software, infrastructure or platform services, or otherwise. Each Party acknowledges and agrees that due to the unique nature of confidential information there can be no adequate remedy at law for any breach of its obligations hereunder, that any such breach or threatened breach may allow a Party or third parties to unfairly compete with the other party resulting in irreparable harm to such Party, and therefore, that upon any such breach or any threat thereof, each party will be entitled to appropriate equitable remedies, and may seek injunctive relief from a court of competent jurisdiction without the necessity of proving actual loss, in addition to whatever remedies either of them might have at law or equity. Any breach of any provisions relating to confidential information will constitute a material breach of the agreement between the Parties and be grounds for immediate termination in the exclusive discretion of the non-breaching Party.

- 6.3. **DHS Confidential Information.** The following types of information shall be considered Confidential Information regardless of whether such information is otherwise designated as confidential:
- 6.3.1. Information that could be used to identify recipients or applicants of DHS services and recipients of service, including Protected Health Information (45 C.F.R. § 160.103);
 - 6.3.2. A DHS applicant's or recipient's social security number;
 - 6.3.3. A DHS applicant's or recipient's residential and mailing addresses;
 - 6.3.4. A DHS applicant's or recipient's employment information;
 - 6.3.5. A DHS applicant's or recipient's financial information;
 - 6.3.6. All individual case information received pursuant to this Agreement unless otherwise designated by DHS;
 - 6.3.7. Personal Information (Iowa Code § 715C.1(11));
 - 6.3.8. Substance abuse treatment information protected by 42 C.F.R. part 2;
 - 6.3.9. Mental health information concerning particular individuals protected by Iowa Code chapters 228 and 229;
 - 6.3.10. HIV/AIDS diagnosis and treatment information protected by Iowa Code § 141A.9;
 - 6.3.11. State security protocols and procedures;
 - 6.3.12. State system architecture;
 - 6.3.13. Information that could compromise the security of the state network or systems; and
 - 6.3.14. Information about DHS's current or future state competitive procurements, including the evaluation process prior to the formal announcement of results.
- 6.4. **Survivability.** Any/all provisions relating to confidential information shall survive termination/expiration of the Underlying Agreement or any Related Agreements.
- 6.5. **Qualified Service Organization.** Vendor acknowledges that it will be receiving, storing, processing, or otherwise dealing with confidential patient records from programs covered by 42 CFR part 2, and Vendor acknowledges that it is fully bound by those regulations. Vendor will

resist in judicial proceedings any efforts to obtain access to patient records except as permitted by 42 CFR part 2. "Qualified Service Organization" as used in this Agreement has the same meaning as the definition set forth in 42 CFR § 2.11.

- 6.6. **Sanctions.** State and federal statutes carry criminal penalty or civil liability for confidentiality violations. For example, see Iowa Code §252B.10; 217.30; 42 U.S.C. §§ 653(1)(2) and 654a(d)(5); and 26 U.S.C. §§ 7213A and 7431. Vendor may not use the Confidential Information for commercial or political purposes or re-disclose the Confidential Information without the express, written consent of the Participating Agency. Vendor may be held civilly or criminally liable for misuse of the Confidential Information.

7. Additional Remedies in the Event of Security Breach.

- 7.1. Generally. Upon the Participating Agency's determination that a Security Breach involving or relating to Participating Agency data has occurred, Vendor shall fully cooperate with the Participating Agency or its designee in fully rectifying/responding to such Security Breach, including notifying all of the Participating Agency's or any other State of Iowa affected users. The Participating Agency shall determine, in its sole discretion, the content and means of delivery of any such notifications. Notwithstanding anything in the Underlying Agreement to the contrary, Vendor will be solely responsible and liable for all costs, expenses, damages, fines, penalties, taxes, assessments, legal fees, claims, service fees, and any and all other amounts of any kind or nature whatsoever (including the reasonable value of time of the Iowa Attorney General's Office or the costs, expenses and attorney fees of other counsel retained by the State of Iowa) to the extent related to, arising out of, or incurred by or on behalf the Participating Agency or the State of Iowa as a result of, any Security Breach caused directly or indirectly, in whole or in part, by Vendor, including the cost of: notifying affected individuals and businesses or reporting to applicable regulators (including preparation, printing, mailing and delivery); opening and closing accounts, printing new checks, embossing new cards; forensic and other audits, investigations, public relations services, call center services, websites and toll-free numbers for assisting affected individuals; obtaining credit-monitoring services and identity-theft insurance for any person or entity whose information has or may have been acquired or compromised; and all other costs associated with corrective or other actions that are taken to mitigate or address the Security Breach. Vendor will reimburse or pay to the Participating Agency or the State of Iowa all such expenses, fees, damages, and all other amounts within fifteen (15) business days of the date of any written demand or request delivered to Vendor. For purposes of this Section, "**Security Breach**" means the unauthorized acquisition of or access to any information or data of or belonging to the Participating Agency or the State of Iowa by an unauthorized person that compromises the security, confidentiality, or integrity of such data or information including instances in which internal personnel access systems in excess of their user rights or use systems inappropriately. "**Security Breach**" shall also be deemed to include any breach of security, confidentiality, or privacy as defined by any applicable law, rule, regulation, or order. To the extent permitted by, and not prohibited by, applicable State of Iowa laws, specifically including Iowa Administrative Code chapter 11—120.5, in no event will the Vendor's liability for such damages be greater than the equivalent of 24 months' revenue for the applicable Purchasing Instrument which gave rise to the claim, Iowa Department of Human Services ("DHS") Additional Requirements. In addition to the requirements set forth in 9.1 above, the following additional incident and breach reporting applies to impacted DHS data:

- 7.1.1. Vendor shall report to the DHS Security and Privacy Officer any use or disclosure of the Confidential Information of which Vendor becomes aware, as well as report any reasonably suspected or unauthorized access to or disclosure of Confidential Information. Vendor agrees to report suspected or unauthorized access to or disclosure

of Confidential Information immediately, as DHS is required to report the suspected or unauthorized access or disclosure within the following timeframes:

- 7.1.1.1. Social Security Administration - 1 hour
- 7.1.1.2. OCSE – FPLS & NDNH - 1 hour
- 7.1.1.3. CMS - Health Care Exchange - 1 hour
- 7.1.1.4. IRS FTI - 24 hours
- 7.1.1.5. All other confidential information -3 business days

7.1.2. Vendor Breach Notification Obligations: Vendor shall comply with all applicable laws that require the notification of individuals in the event of unauthorized use or disclosure of Confidential Information or other event(s) requiring notification in accordance with applicable law. In the event of a breach of Vendor's security obligations or other event requiring notification under applicable law, Vendor agrees to follow DHS directives, which may include assuming responsibility for informing all such individuals in accordance with applicable laws, and to indemnify, hold harmless, and defend the State of Iowa against any claims, damages, or other harm related to such breach.

8. **Confidentiality Agreements.** Vendor on behalf of Vendor's employees, contractors, subcontractors, or agents will execute any agreements to address any compliance, legal, confidentiality, or privacy concerns that arise in connection with this Agreement, such as a Business Associate Agreement ("**BAA**") or Criminal Justice Information System ("**CJIS**") Security Addendum, or any other non-disclosure or confidentiality agreements in connection with this Agreement or any related agreement deemed necessary by the OCIO ("**Ancillary Agreement(s)**"). Such Ancillary Agreements shall be incorporated by reference as if fully set forth herein .
9. **Choice of Law/Forum.** Notwithstanding anything in the Underlying Agreement or any Related Agreement to the contrary, this purchase shall be governed in all respects by, and construed in accordance with, the laws of the State of Iowa, without giving effect to the choice of law principles thereof. Any and all litigation or actions commenced in connection with this purchase, including after expiration or termination of the same, shall be brought in Des Moines, Iowa, in Polk County District Court for the State of Iowa, if jurisdiction is proper. However, if jurisdiction is not proper in the Iowa District Court for Polk County, but is proper only in a United States District Court, the matter shall be commenced in the United States District Court for the Southern District of Iowa, Central Division. Vendor irrevocably: (i) consents and agrees that any legal or equitable action or proceeding arising under, in connection with, or arising out of the Underlying Agreement shall be brought and maintained exclusively in the aforesaid courts; (ii) submits to and accepts, with respect to any such action or proceeding, for it and in respect of its properties and assets regardless of the physical or legal situs thereof, generally and unconditionally, the jurisdiction of the aforesaid courts; and (iii) waives any objection to such jurisdiction based on forum non conveniens or otherwise.
10. **Equal Opportunity/Affirmative Action.** Vendor represents, warrants, covenants, and promises that it will comply with all applicable federal, state, foreign, and local laws, rules, regulations, codes, standards, ordinances, and orders prohibiting discriminatory employment practices or related to equal opportunity in employment or affirmative action, including Iowa Code chapter 216 and section 19B.7 and the rules of the Iowa Department of Administrative Services and the Iowa Civil Rights Commission. Upon the Participating Agency or its designee's written request, Vendor shall submit a copy of its affirmative action plan, containing goals, time specifications, accessibility plans, and policies as required by Iowa Administrative Code chapter 11—121. Vendor shall take such steps as necessary to ensure its subcontractors are bound by the terms and conditions contained in this Section. Failure to fulfill any requirement set forth in this Section shall be regarded as a material breach and the Participating Agency or OCIO may cancel, terminate, or suspend, in whole or in part, the Agreement. In addition, Vendor may

be declared ineligible for future State contracts in accordance with authorized procedures or be subject to other sanctions as provided by law or rule.

11. Termination for Non-Appropriation. Notwithstanding anything in the Underlying Agreement to the contrary, and in addition to any other termination provision(s) set forth therein, in the event of a Non-Appropriation Event, the Participating Agency or OCIO may terminate the Agreement in whole or in part, without advance notice and without penalty or liability to the Participating Agency. In the event of such termination, any further obligation owed to Vendor by the Participating Agency shall be limited by, and subject to, legally available funds. For purposes of this Section the term “**Non-Appropriation Event**” means any of the following:

- 11.1. The legislature or governor fail, in the sole opinion of the Participating Agency, to appropriate funds sufficient to allow the Participating Agency to either meet its obligations under this Agreement or a Purchasing Instrument, or to operate as required or to fulfill its obligations under the same;
- 11.2. If funds are de-appropriated, reduced, not allocated, or receipt of funds is delayed, or if any funds or revenues needed by the Participating Agency (regardless of the source of funding or revenues) to make any payment in accordance with the terms of this Agreement are insufficient or unavailable for any other reason as determined by the Participating Agency in its sole discretion;
- 11.3. If the Participating Agency’s authorization to conduct its business or engage in activities or operations related to the subject matter of a Purchasing Instrument or this Agreement is withdrawn or materially altered or modified;
- 11.4. If the Participating Agency’s duties, programs, or responsibilities are modified or materially altered; or
- 11.5. If there is a decision of any court, administrative law judge or an arbitration panel or any law, rule, regulation, or order is enacted, promulgated, or issued that materially or adversely affects the Participating Agency’s ability to fulfill any of its obligations under this Agreement or a Purchasing Instrument.

12. Use of Third Parties.

- 12.1. Subcontracting, generally. No subcontract or other delegation of work shall relieve or discharge Vendor from any obligation, provision, or liability under this Agreement. Vendor shall remain solely responsible its performance under this Agreement, and for compliance with the terms, conditions, and requirements set forth in the same. Vendor shall be fully responsible and liable for all acts or omissions of any subcontractors, affiliates, subsidiaries, or any other third party, and any employees, agents, independent contractors, or any other staff or personnel of any of the foregoing (“**Vendor Agents**”) acting on behalf of or at the direction of Vendor. Any action of a Vendor Agent, which, if done by Vendor, would constitute a breach of Agreement or a Purchasing Instrument executed hereunder shall be deemed a breach by Vendor and have the same legal effect. Vendor is solely liable for any and all payments that may be due to Vendor Agents pursuant to any subcontract or otherwise. Vendor shall indemnify and hold harmless the State, OCIO, and the Participating Agency and their officers, directors, employees, officials, and agents from and against any and all claims, demands, liabilities, suits, actions, damages, losses, taxes, penalties, costs and expenses of every kind and nature whatsoever arising out of, resulting from, or in any way related to Vendor’s breach of any subcontract or contract into which it enters, including Vendor’s failure to pay any and all amounts due to any Vendor Agents. All subcontracts shall contain provisions which allow the Participating Agency or its designee to access the subcontractor’s books, documents, and records and for inspections of work.
- 12.2. Subcontractor Access and Notification. For the sake of clarity, in the event Vendor subcontracts any of the work to be performed under this Agreement, such delegation of work is subject to the 45-Day Notification Procedures set forth in IRS Publication 1075, Exhibit 6 “Contractor 45-Day

Notification Procedures" (which procedures may be found at the following link: <https://www.irs.gov/pub/irs-pdf/p1075.pdf>.)

13. **Conflicts of Interest.** Vendor represents, warrants, and covenants that no relationship exists or will exist during the term of this Agreement between Vendor or Vendor Agents and OCIO or the Participating Agency that is or may constitute a conflict of interest or appearance of impropriety. To the extent applicable, the provisions of Iowa Code Chapter 68B shall apply to this Agreement, and Vendor and Vendor Agents shall not engage in any conduct or permit any third party from engaging in any conduct that would violate that chapter.
14. **Records Retention and Access.** Vendor shall maintain books, documents and records that sufficiently and properly document Vendor's performance under this Agreement including records that document all fees and other amounts charged during the term of this Agreement for a period of at least five (5) years following the later of the date of final payment, termination or expiration of the same, or the completion of any required audit. Vendor shall permit the Participating Agency or its designee, and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government to access and examine, audit, excerpt and transcribe any pertinent books, documents, electronic or optically stored and created records or other records of Vendor relating directly or indirectly to Vendor's performance under this Agreement or a Purchasing Instrument.
15. **Administrative Fees.** Without affecting the prices/rates, Vendor is authorized to charge the Participating Agency hereunder, Vendor shall provide to OCIO a 1.00% administrative fee on the sales made by and through this Agreement. This 1.00% administrative fee shall be paid quarterly to:

Attn: Business Services Division Administrator

Iowa Office of the Chief Information Officer

Hoover State Office Building, Level B

Des Moines, IA 50319

Payment shall be made in accordance with the following schedule:

<u>Period End</u>	<u>Fee Due</u>
June 30	July 31
September 30	October 31
December 31	January 31
March 31	April 30

16. **Independent Contractor.** Vendor is an independent contractor of OCIO and the Participating Agency. No Vendor Agents shall be considered employees of OCIO or the Participating Agency and shall not be entitled to any benefits typically afforded any employees of OCIO or the Participating Agency.
17. **Not a Joint Venture.** Nothing in this Agreement shall be construed as creating or constituting the relationship of the partnership, joint venture (or other association of any kind or agent/principal relationship) between the Parties hereto. No Party, unless otherwise specifically provided for herein, has the authority to enter into any agreement or create an obligation or liability on behalf of, in the name of, or binding upon, another Party.
18. **Multiple Counterparts.** This Agreement may be executed in several counterparts, notwithstanding that all Parties are not signatories to the same counterpart. Each Purchasing Instrument executed hereunder shall constitute a separate and distinct contract between Vendor and the Participating Agency.
19. **Personnel Safeguards.**

19.1. Background Checks.

- 19.1.1. Floor. Vendor shall conduct nationwide criminal background checks on Vendor Personnel ("Vendor Personnel" means Vendor's employees, agents, contractors, or subcontractors performing services under this Agreement) and shall not utilize any such personnel in the performance of this Agreement who have been convicted of any crime of dishonesty, including fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to one (1) year is an authorized penalty.
- 19.1.2. Additional Screening. Governmental Entities reserve the right to request that Vendor Personnel conduct additional background checks at any time prior to or during any engagement or that Vendor Personnel provide records of already-conducted background checks pursuant to §19.1.1. Such background checks may include a work history, financial review, request for criminal history data, or local or state criminal history check, national criminal history check through the Federal Bureau of Investigation ("FBI"), or other background check requirement imposed by law, rule, regulation, order, or policy. Vendor Personnel may be required to authorize the release of the results of criminal history checks, including those through the FBI, to one or more Governmental Entities, including OCIO. Such background checks may be conducted by the applicable Governmental Entity or its Authorized Contractor, upon mutual agreement by the Vendor. A Governmental Entity may also request that Vendor conduct or provide a work history or financial review of Vendor Personnel. Vendor shall provide Governmental Entities with these background check results in a mutually agreeable form and manner prior to the commencement of any engagement by Vendor Personnel or as may otherwise be agreed to by the parties. In the event Vendor fails or refuses to conduct additional background checks as may be requested by OCIO or a Governmental Entity under this section, OCIO may, in its sole discretion, terminate this Agreement or an individual Purchasing Instrument for cause.
- 19.1.3. Vendor shall be responsible for payment of all costs associated with any and all background checks to which Vendor Personnel are subjected under §19.1 herein, except that the applicable Government Entity shall be responsible for any Additional Screening under §19.1.2 that Vendor had not been made aware of prior to the execution of the applicable Purchasing Instrument.
- 19.1.4. Notwithstanding anything in this section to the contrary, Vendor Personnel granted access to Federal Tax Information ("FTI") under this Agreement shall at a minimum meet the background investigation requirements set forth in IRS Publication 1075, Section 5.1.1, or any successor provision, which requirements may be found at the following link: <https://www.irs.gov/pub/irs-pdf/p1075.pdf>.

- 19.2. **Right to Remove Individuals.** Should a Governmental Entity be dissatisfied with the performance, competence, responsiveness, capabilities, cooperativeness, or fitness for a particular task of any Vendor Personnel, the Governmental Entity may request the replacement of such Vendor Personnel ("Replacement Request"). The Replacement Request shall be in writing and upon receipt of the request, Vendor shall make reasonable efforts to furnish a qualified and acceptable replacement within fifteen (15) business days. If the applicable Governmental Entity, in its sole discretion, determines Vendor Personnel pose a potential security risk and notifies Vendor of such security risk in its Replacement Request, Vendor shall immediately remove such individual; any replacement furnished by Vendor in connection with such a request may not perform or provide Deliverables to the applicable Governmental Entity unless and until the applicable Governmental Entity gives its consent to Vendor's use of such replacement. Vendor shall notify OCIO immediately upon receiving a Replacement Request from another Governmental Entity and promptly provide a copy of such Replacement Request to OCIO.

- 19.3. **Security Awareness Training.** Vendor shall promote and maintain an awareness of the importance of securing Customer Property, including Customer data, among Vendor Personnel. Vendor Personnel shall complete the security awareness training provided by the OCIO.
 - 19.4. **Separation of Job Duties.** Vendor shall diligently monitor and enforce separation of job duties and limit access to and knowledge of Customer Property to those Vendor Personnel to which such access and knowledge is absolutely necessary to provide Deliverables hereunder.
 - 19.5. **Non-disclosure/Confidentiality Agreements.** Vendor Personnel are required to sign a Governmental Entity's standard confidentiality and/or non-disclosure agreement(s), or other confidentiality or non-disclosure agreement(s) as may be required by applicable law, rule, regulation, or policy. Where required, such confidentiality and non-disclosure agreements must be signed prior to access of Governmental Entity system, renewed annually, and maintained by the Vendor.
20. **CONUS Requirement.** Storage, Processing, transmission, retention, or other maintenance of Customer data at rest and all backups shall occur solely in the continental United States of America. Vendor shall not allow Vendor Personnel to store, process, or retain Customer data on any portable devices, including personal computers, tablets, or cell phones, except to the extent such devices are used and permanently stored or backed up at all times only in the continental United States of America.
 21. **Network Security & Privacy Liability Coverage.** Vendor shall maintain Network Security & Privacy Liability coverage, which can be included via evidenced endorsement to Professional Errors & Omissions coverage, throughout the term of this Agreement, with a minimum required limit of \$5,000,000 per Customer claim. Vendor shall add Customer as an additional insured to such policy of insurance and shall not cancel such insurance except upon at least thirty (30) days' prior written notice to Customer.
 22. Notwithstanding anything in this Agreement to the contrary, any terms, conditions, or requirements of the Underlying Agreement that conflict with, are inconsistent with, are prohibited by, or are not permitted by applicable law, rule, regulation, order, or policy shall be replaced or superseded by terms, conditions, or requirements that comply with the minimum requirements of applicable law, rule, regulation, order, or policy. In addition, Vendor shall generally cooperate with OCIO and the Participating agency in complying with any of its legal obligations imposed by applicable law, rule, regulation, order, or policy.

**Exhibit B (applicable when identified, in writing, by a Participating Agency):
Iowa Department of Human Services Business Associate Agreement**

THIS Business Associate Agreement (“BAA”) supplements and is made a part of the Contract (hereinafter, the “Underlying Agreement”) between the Iowa Department of Human Services (the “Agency”) and the Contractor (the “Business Associate”).

1. Purpose.

The Business Associate performs certain services on behalf of or for the Agency pursuant to the Underlying Agreement that may include the exchange of information that is protected by the Health Insurance Portability and Accountability Act of 1996, as amended, and the HIPAA Rules (collectively “HIPAA”). The parties to the Underlying Agreement are entering into this BAA to establish the responsibilities of both parties regarding Protected Health Information and to bring the Underlying Agreement into compliance with HIPAA.

2. Definitions.

The following terms used in this BAA shall have the same meaning as those terms in the HIPAA Rules: Breach, Designated Record Set, Disclose, Disclosure, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

Specific definitions:

- a. Business Associate. “Business Associate” shall generally have the same meaning as the term “Business Associate” at 45 C.F.R. § 160.103, and in reference to the party to this BAA, shall mean the Contractor.
- b. Covered Entity. “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 C.F.R. § 160.103, and in reference to the party to this BAA shall mean the portions of the Agency, which is a “hybrid” entity under HIPAA, that fall under the purview of HIPAA.
- c. HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Part 160 and Part 164.

3. Obligations and Activities of Business Associate.

The Business Associate agrees to:

- a. Not Use or Disclose Protected Health Information other than as permitted or required by this BAA or as Required By Law;
- b. Use appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 with respect to Protected Health Information, to prevent Use or Disclosure of Protected Health Information other than as provided for by this BAA;
- c. Report to the Covered Entity any Use or Disclosure of Protected Health Information not provided for by this BAA of which it becomes aware, including Breaches of Unsecured Protected Health Information as required at 45 C.F.R. § 164.410, and any Security Incident of which it becomes aware in accordance with subsection 7, below;
- d. In accordance with 45 C.F.R. § 164.502(e)(1)(ii) and 45 C.F.R. § 164.308(b)(2), if applicable, ensure that any Subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information;
- e. Make available Protected Health Information in a Designated Record Set to the Covered Entity as necessary to satisfy the Covered Entity’s obligations under 45 C.F.R. § 164.524;

- f. Make any amendment(s) to Protected Health Information in a Designated Record Set as directed or agreed to by the Covered Entity pursuant to 45 C.F.R. § 164.526, or take other measures as necessary to satisfy the Covered Entity's obligations under 45 C.F.R. § 164.526;
- g. Maintain and promptly make available, as directed by the Covered Entity, the information required to provide an accounting of Disclosures to the Covered Entity as necessary to satisfy the Cover Entity's obligations under 45 C.F.R. § 164.528;
- h. Immediately (i.e., within 72 hours) forward any request that the Business Associate receives directly from an Individual who (1) seeks access to Protected Health Information held by the Business Associate pursuant to this BAA, (2) requests amendment of Protected Health Information held by the Business Associate pursuant to this BAA, or (3) requests an accounting of Disclosures, so that the Covered Entity can coordinate the response;
- i. To the extent the Business Associate is to carry out one or more of the Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s); and
- j. Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

4. Permitted Uses and Disclosures by the Business Associate.

- a. The Business Associate may Use or Disclose Protected Health Information received in relation to the Underlying Agreement as necessary to perform the services set forth in the Underlying Agreement.
- b. The Business Associate is not authorized to de-identify Protected Health Information in accordance with 45 C.F.R. § 164.514(a)-(c) unless expressly authorized to do so in writing by the Covered Entity's Security and Privacy Officer.
- c. The Business Associate agrees to make Uses and Disclosures and Requests for Protected Health Information consistent with the Covered Entity's Minimum Necessary policies and procedures.
- d. The Business Associate may not Use or Disclose Protected Health Information in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by the Covered Entity.
- e. The Business Associate may Use or Disclose the Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided the Disclosures are Required By Law, or the Business Associate obtains reasonable assurances from the person to who the information is Disclosed that the information will remain confidential and used or further Disclosed only as Required By Law or for the purposes for which it was Disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the Protected Health Information has been Breached.

5. Obligations of the Covered Entity.

- a. The Covered Entity will notify the Business Associate of any limitation(s) in the Notice of Privacy Practices of Covered Entity under 45 C.F.R. § 164.520, to the extent that such limitation may affect the Business Associate's Use or Disclosure of Protected Health Information.
- b. The Covered Entity will notify the Business Associate of any changes in, or revocation of, the permission by an Individual to Use or Disclose his or her Protected Health Information, to the extent that such changes may affect the Business Associate's Use or Disclosure of Protected Health Information.
- c. The Covered Entity shall notify the Business Associate of any restriction on the Use or Disclosure of Protected Health Information that the Covered Entity has agreed to or is required to abide by under 45

C.F.R. § 164.522, to the extent that such restriction may affect the Business Associate's Use or Disclosure of Protected Health Information.

6. Permissible Requests by the Covered Entity.

The Covered Entity shall not request the Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under Subpart E of 45 C.F.R. Part 164 if done by the Covered Entity.

7. Breach Notification Obligations of the Business Associate.

In the event that the Business Associate discovers a Breach of Unsecured Protected Health Information, the Business Associate agrees to take the following measures immediately (i.e., within 72 hours) after the Business Associate first discovers the incident:

- a. To notify the Covered Entity of any Breach. Such notice by the Business Associate shall be provided without unreasonable delay, except where a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security. For purposes of this BAA, the Business Associate is deemed to have discovered the Breach as of the first day on which such Breach is known to the Business Associate or by exercising reasonable diligence, would have been known to the Business Associate, including any person, other than the Individual committing the Breach, that is a workforce member or agent of the Business Associate;
- b. To include to the extent possible the identification of the Individuals whose Unsecured Protected Health Information has been, or is reasonably believed to have been, the subject of a Breach;
- c. To complete and submit the Information Security Data Breach Incident Report form located on the Agency's website at <http://www.dhs.state.ia.us/Consumers/Health/HIPAA/Home.html>; and
- d. To draft a letter for the Covered Entity to utilize to notify the Individuals that their Unsecured Protected Health Information has been, or is reasonably believed to have been, the subject of a Breach. The draft letter must include, to the extent possible and as permitted by law:
 - i. A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 - ii. A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as full name, Social Security Number, date of birth, home address, account number, disability code, or other types of information that were involved);
 - iii. Any steps the Individuals should take to protect themselves from potential harm resulting from the Breach;
 - iv. A brief description of what the Covered Entity and the Business Associate are doing to investigate the Breach, to mitigate harm, and to protect against any further Breaches; and
 - v. Contact procedures for Individuals to ask questions or learn additional information, which shall include Covered Entity contact information, including a toll-free telephone number, an e-mail address, web site, or postal address.

8. BAA Administration.

- a. *Term and Termination.* This BAA is effective on the date of its incorporation into the Underlying Agreement. The Covered Entity may terminate this BAA for cause if the Covered Entity determines that the Business Associate or any of its Subcontractors or agents has breached a material term of this BAA. The Covered Entity will provide written notice to the Business Associate requesting that the Business Associate remedy the breach within the time frame provided in the notice. The remedy time frame provided the Business Associate will be consistent with the severity of the breach. The Covered Entity reserves the

right to terminate the BAA without notice in the event that the Covered Entity determines, in its sole discretion, that notice is either infeasible or inappropriate under the circumstances. Expiration or termination of either the Underlying Agreement or this BAA shall constitute expiration or termination of the corresponding agreement.

b. *Obligation to Return PHI, Destroy PHI, or Extend Protections to Retained PHI.* Upon expiration or termination of this BAA for any reason, the Business Associate shall return to the Covered Entity or destroy all Protected Health Information received from Covered Entity, or created, maintained, or received by the Business Associate on behalf of the Covered Entity, that the Business Associate still maintains in any form. Return or destruction of Protected Health Information shall take place in accordance with the requirements for such return or destruction as set forth in the Underlying Agreement or as otherwise directed by the Covered Entity. The Business Associate shall retain no copies of the Protected Health Information unless such return or destruction is not feasible. If return or destruction of the Protected Health Information is not feasible, upon expiration or termination of this BAA, the Business Associate shall:

- i. Retain only that Protected Health Information that is necessary for the Business Associate to continue its proper management and administration or to carry out its legal responsibilities to the extent Required By Law;
- ii. Return to the Covered Entity or destroy the remaining Protected Health Information that the Business Associate still maintains in any form;
- iii. Continue to use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to Protected Health Information to prevent Use or Disclosure of the Protected Health Information, other than as provided for in this Section, for as long as the Business Associate retains the Protected Health Information;
- iv. Not Use or Disclose the Protected Health Information retained by the Business Associate other than for the purposes for which such Protected Health Information was retained and subject to the same conditions set out in subsection 4(e) above under "Permitted Uses and Disclosures by the Business Associate" which applied prior to termination; and
- v. Return to the Covered Entity or destroy the Protected Health Information retained by the Business Associate when it is no longer needed by the Business Associate for its proper management and administration or to carry out its legal responsibilities.

c. *Compliance with Confidentiality Laws.* The Business Associate acknowledges that it must comply with all applicable laws that may protect the Protected Health Information or other patient information received and will comply with all such laws, which include but are not limited to the following:

- i. Medicaid applicants and recipients: 42 U.S.C. § 1396a(a)(7); 42 C.F.R. §§ 431.300 - .307; Iowa Code § 217.30;
- ii. Mental health treatment: Iowa Code chapters 228, 229;
- iii. HIV/AIDS diagnosis and treatment: Iowa Code § 141A.9; and
- iv. Substance abuse treatment: 42 U.S.C. § 290dd-2; 42 C.F.R. part 2; Iowa Code §§ 125.37, 125.93.
- v. Consumer personal information: Iowa Code ch. 715C.

d. *Financial Obligations for Breach Notification.*

- i. To the extent that the Business Associate is a governmental agency subject to the provisions of Iowa Code § 679A.19, any dispute between the Contractor and the Agency, including but not limited to

the incursion of any costs, liabilities, damages, or penalties related to the Business Associate's breach of this BAA, shall be submitted to a board of arbitration in accordance with Iowa Code § 679A.19.

ii. To the extent that the Business Associate is not subject to the provisions of Iowa Code § 679A.19, the Business Associate shall defend, indemnify, and hold harmless the Covered Entity from costs, liabilities, damages, or penalties incurred as a result the Business Associate or any Subcontractor's breach of this BAA or conduct of the Business Associate or the Business Associate's Subcontractor that is not in compliance with 45 C.F.R. Part 164, subpart E. Such liability shall not attach to disclosures made at the express written direction of the Covered Entity.

iii. The Business Associate's obligations under this subsection 8(d) are limited to third-party claims.

e. *Amendment.* The Covered Entity may amend the BAA from time to time by posting an updated version of the BAA on the Agency's website at: <http://www.dhs.state.ia.us/Consumers/Health/HIPAA/Home.html>, and providing the Business Associate electronic notice of the amended BAA. The Business Associate shall be deemed to have accepted the amendment unless the Business Associate notifies the Covered Entity of its non-acceptance in accordance with the Notice provisions of the Contract within 30 days of the Covered Entity's notice referenced herein. Any agreed alteration of the then current BAA shall have no force or effect until the agreed alteration is reduced to a Contract amendment and signed by the Contractor, Agency Director, and the Agency Security and Privacy Officer.

f. *Survival.* All obligations of the Agency and the Business Associate incurred or existing under this BAA as of the date of expiration or termination will survive the expiration or termination of this BAA.

g. *No Third Party Beneficiaries.* There are no third party beneficiaries to this BAA between the parties. The Underlying Agreement and this BAA are intended to only benefit the parties to the BAA.

h. *Miscellaneous.*

i. *Regulatory References.* A reference in this BAA to a section in the HIPAA Rules means the section as it may be amended from time to time.

ii. *Interpretation.* Any ambiguity in this BAA shall be interpreted to permit compliance with the HIPAA Rules.

iii. *Applicable Law.* Except to the extent preempted by federal law, this BAA shall be governed by and construed in accordance with the same internal laws as that of the Underlying Agreement.

Exhibit C (applicable when identified, in writing, by a Participating Agency)**IRS Pub1075, Exhibit 7**

In performance of this Agreement, Vendor will comply with all provisions of IRS Publication 1075, Exhibit 7, as may be amended, a current version of which is attached in this Exhibit C:

CONTRACT LANGUAGE FOR GENERAL SERVICES**I. PERFORMANCE**

In performance of this contract, the Contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

- (1) All work will be performed under the supervision of the contractor or the contractor's responsible employees.
- (2) The contractor and the contractor's employees with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.
- (3) Any Federal tax returns or return information (hereafter referred to as returns or return information) made available shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone other than an officer or employee of the contractor is prohibited.
- (4) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.
- (5) No work involving returns and return information furnished under this contract will be subcontracted without prior written approval of the IRS.
- (6) The contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.
- (7) The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.
- (8) (Include any additional safeguards that may be appropriate.)

II. CRIMINAL/CIVIL SANCTIONS

- (1) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRCs 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
- (2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone without an official need-to-know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such

unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRCs 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

(3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

(4) Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors must be advised of the provisions of IRCs 7431, 7213, and 7213A (see [Exhibit 4, Sanctions for Unauthorized Disclosure](#), and [Exhibit 5, Civil Damages for Unauthorized Disclosure](#)). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For both the initial certification and the annual certification, the contractor must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

III. INSPECTION

The IRS and the Agency, with 24 hour notice, shall have the right to send its inspectors into the offices and plants of the contractor to inspect facilities and operations performing any work with FTI under this contract for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. On the basis of such inspection, corrective actions may be required in cases where the contractor is found to be noncompliant with contract safeguards. Publication 1075 (September 2016)

Exhibit D (applicable when identified, in writing, by a Participating Agency)**Flow Down of Social Security Administration Data Exchange Agreements with the State of Iowa****I. Access to Confidential Data**

OCIO holds on behalf of the State of Iowa an Information Exchange Agreement (“IEA”), made effective as of January 18, 2018, as a State Transmission/Transfer Component and a corresponding Computer Matching and Privacy Protection Act Agreement (“CMPPA”), made effective as of May 11, 2017, (collectively referred to herein as (“Flow Down Agreements”)) with the Social Security Administration (“SSA”), which agreements establish terms and conditions governing OCIO’s transmission, storage, and processing of data provided to OCIO by the SSA. The IEA and CMPPA are, to the extent applicable, incorporated herein by reference as if fully set forth herein and constitute contractual obligations of Vendor and its employees, agents, contractors, subcontractors, and other third parties operating on Vendor’s behalf. Vendor’s employees, agents, and subcontractors may have access to confidential data maintained by the OCIO pursuant to these agreements to the extent necessary to carry out its responsibilities under the Agreement. Vendor shall presume that all information received pursuant to the Agreement is confidential unless otherwise designated by the Department.

II. Performance

In performance of the Contract, the contractor agrees to comply with and assume responsibility for compliance by its employees, agents, or subcontractors with the following requirements:

- 1) Vendor and Vendor’s employees, agents, or subcontractors will abide by all relevant Federal laws, restrictions on access, use, and disclosure, and security requirements in the Flow Down Agreements.
- 2) Vendor and Vendor’s employees, agents, or subcontractors may only access data obtained from SSA to the extent necessary to perform their official duties in connection with purposes identified in the Flow Down Agreements and under the Agreement.
- 3) Vendor and Vendor’s employees, agents, or subcontractors will not duplicate, disseminate, or disclose any SSA data without obtaining SSA’s prior written approval, as facilitated by OCIO.
- 4) By signing the Agreement, Vendor acknowledges that OCIO provided it with copies of the Flowdown Agreements, including all related attachments before disclosing any SSA data to Vendor and Vendor’s employees, agents, or subcontractors.
- 5) Upon OCIO’s request, Vendor will provide OCIO with a current list of the employees, contractors, or agents of Vendor or Vendor’s contractors and agents with access to SSA data, which OCIO may, in turn, supply to SAA. Vendor consents to OCIO’s subsequent redisclosure of such lists to SSA.
- 6) Vendor acknowledges that Vendor and Vendor’s employees, agents, or subcontractors who access, use, or disclose SSA data in a manner or purpose not authorized by the Flow Down Agreement(s) may be subject to civil and criminal sanctions pursuant to applicable Federal statutes.
- 7) OCIO may conduct compliance reviews, including on-site reviews, of Vendor and Vendor’s agents or subcontractors as needed to comply with its obligations to SSA. Vendor and Vendor’s agents or subcontractors will cooperate with OCIO, or to the extent necessary, SSA in the performance of such compliance reviews, and reasonably supply any data, information, or documentation, or access to relevant systems, necessary to facilitate a meaningful and effective compliance review.
- 8) Vendor and Vendor’s employees, agents, or subcontractors will:
 - a) Properly safeguard PII (as defined in the Flow Down Agreements) furnished by SSA under these Flow Down Agreements from loss, theft, or inadvertent disclosure;
 - b) Understand that they are responsible for safeguarding this information at all times, regardless of whether or not the employee, agent, or subcontractor is at his or her regular duty station;

- c) Ensure that laptops and other electronic devices/media containing PII are encrypted and/or password protected;
 - d) Send emails containing PII only if encrypted or if to and from addresses that are secure; and
 - e) Limit disclosure of the information and details relating to a PII loss only to those with a need to know.
 - f) If Vendor or any of Vendor's employees, agents, or subcontractors becomes aware of suspected or actual loss of PII, they must immediately contact the OCIO and provide timely updates as any additional information about the loss of PII becomes available, or as otherwise requested by OCIO or SSA.
- 9) Vendor's employees, agents, or subcontractors will execute any agreements to address any compliance, legal, confidentiality, or privacy concerns required by SSA, or any other non-disclosure or confidentiality agreements required by SSA, which agreements shall be considered Ancillary Agreements under the Agreement and shall be incorporated by reference as if fully set forth herein.
- 10) OCIO will provide to Vendor, and Vendor and Vendor's employees, agents, or subcontractors will comply with all requirements as further defined in the *Electronic Security Information Exchange Security Requirements and Procedures For State and Local Agencies Exchanging Electronic Information with the Social Security Administration*.