

## ADDENDUM A

### DHHS GENERAL TERMS – SERVICES CONTRACTS

1. ACCESS TO RECORDS.

- 1.1. All Contractor books, records, and documents, regardless of physical form, including data maintained in computer files or on magnetic, optical or other media, relating to work performed or monies received under this Contract, shall be subject to audit by DHHS or its authorized representative at any reasonable time and upon the provision of reasonable notice.
- 1.2. Notwithstanding any other requirement in this Contract to maintain certain records (as identified in that requirement) for a longer period, Contractor shall maintain all records for five (5) years from the date of final payment. As required by law, records that fall under the provisions of the Health Insurance Portability and Accountability Act (HIPAA) and all associated rules and regulations, including but not limited to the policies and procedures identified in 45 CFR § 164.316, shall be maintained for six (6) years from the date of their creation or date when the policy or procedures were last in effect.
- 1.3. In addition to the foregoing retention periods, all records shall be maintained until all issues related to an audit, litigation or other action are resolved to the satisfaction of DHHS.
- 1.4. All records shall be maintained in accordance with generally accepted business practices.

2. AMENDMENT. This Contract may be modified only by written amendment, executed by both parties. No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties.

3. ANTI-DISCRIMINATION.

- 3.1. Contractor shall comply with all applicable local, state and federal law regarding civil rights, including but not limited to, Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d et seq.; the Rehabilitation Act of 1973, 29 U.S.C. §§ 794 et seq.; the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.; the Age Discrimination in Employment Act, 29 U.S.C. §§ 621 et seq.; the Age Discrimination Act of 1975, 42 U.S.C. §§ 6101 et seq.; and the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. §§ 48-1101 to 48-1125. Violation of said statutes and regulations will constitute a material breach of this Contract.
- 3.2. Contractor shall insert a similar provision as the provision immediate above into all subcontracts.

4. AUDIT REQUIREMENTS.

- 4.1. Contractor shall provide DHHS any and all written communications received by Contractor from an auditor related to Contractor's internal control over financial reporting requirements and communication with those charged with governance, including those in compliance with or related to Statement of Auditing Standards 122. Contractor agrees to provide DHHS with a copy of all such written communications immediately upon receipt or instruct any auditor it employs to deliver copies of such written communications to DHHS at the same time copies are delivered to Contractor, in which case Contractor agrees to verify that DHHS has received a copy.
- 4.2. Contractor shall immediately correct any material weakness or condition reported to DHHS in the course of an audit and notify DHHS that the corrections have been made.
- 4.3. In addition to, and in no way in limitation of any obligation in this Contract, Contractor shall be liable for audit exceptions, and shall return to DHHS all payments made under this Contract for which an exception has been taken or which has been disallowed because of such an exception, upon demand from DHHS.

5. ASSIGNMENT. Contractor shall not assign or transfer any interest, rights, or duties under this Contract without prior written consent of DHHS. In the absence of such written consent, any assignment or attempt to assign shall constitute a breach of this Contract.

6. CLEAN AIR ACT. If this Contract involves federal funds and the total value exceeds \$150,000, Contractor shall ensure that it in compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. §§ 7401 et seq., and the Federal Water Pollution Control Act as amended, 33 U.S.C. §§ 1251 et seq.

7. CONFIDENTIALITY.

7.1. Any and all information gathered in the performance of this Contract, either independently or through DHHS, shall be held in the strictest confidence and shall be released to no one other than DHHS without the prior written authorization of DHHS. Contrary contract provisions set forth in the Contract shall be deemed to be authorized exceptions to this general confidentiality provision.

7.2. Nothing in this section or this Contract shall relieve Contractor of the obligation to comply with all applicable statutes and regulations, current and as amended, including but not limited to HIPAA.

8. CONFLICTS OF INTEREST. In the performance of this Contract, Contractor shall avoid all conflicts of interest and all appearances of conflicts of interest. Contractor shall immediately notify DHHS, in writing, of any such conflict.

9. CONTRACT MANAGEMENT.

9.1 *Corrective Action Plan.* If Contractor fails to meet the Scope of Work as set forth in the Contract, DHHS may require Contractor to complete a Corrective Action Plan (hereinafter "CAP").

9.1.1 DHHS shall set a deadline for the CAP to be provided to DHHS, but shall provide Contractor reasonable notice of said deadline. In its notice, DHHS shall identify each issue to be resolved.

9.1.2 The CAP will include, but is not limited to, a written response noting the steps being taken by Contractor to resolve each issue(s), including a date that the issue(s) will be resolved.

9.1.3 If Contractor fails to provide a CAP by the deadline set by DHHS, fails to provide DHHS with a CAP demonstrating the issues regarding performance will be remedied, or fails to meet the deadline(s) set in the CAP for resolution of the issue(s), DHHS may withhold payments (for the work or deliverables) related to the issues identified by DHHS, or exercise any other remedy set forth in this Contract or available under law.

9.2 *Suspension of Services.* DHHS may, at any time and without advance notice, require Contractor to suspend any or all activities provided under this Contract. A suspension may be the result of a reduction in federal or state funds, budget freeze, emergency, contract compliance issues, investigation, or other reasons not stated here.

9.2.1 In the event of such suspension, the DHHS Chief Operating Officer/Contract Administrator or designee will issue a written Stop Work Order to the Contractor. The Stop Work Order will specify which activities are to be immediately suspended, the reason(s) for the suspension, and, if possible, the known duration period of the suspension.

9.2.2 Upon receipt of the Stop Work Order, the Contractor shall immediately comply with its terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the order during the period of suspension.

9.2.3 The DHHS Chief Operating Officer/Contract Administrator or designee may extend the duration of the suspension by issuing a modified Stop Work Order which states the new end date of the suspension and the reason for the extension.

9.2.4 The suspended activity may resume when (i) the suspension period identified in the Stop Work Order has ended or (ii) when the DHHS Chief Operating Officer/Contract Administrator or designee has issued a formal written notice cancelling the Stop Work Order or directing Contractor to resume partial services.

9.3 *Breach of Contract.* DHHS may terminate the Contract, in whole or in part, if Contractor fails to perform its obligations under the Contract in a timely and proper manner. DHHS may, by providing a written notice to Contractor, allow Contractor to cure a breach of contract within a period of thirty (30) days or longer at DHHS's discretion, considering the gravity and nature of the breach. Said notice shall be delivered by Certified Mail, Return Receipt Requested, or in person with proof of delivery. Allowing Contractor time to cure a breach of contract does not waive DHHS's right to immediately terminate the Contract for the same or different breach at a different time.

9.3.1 DHHS may, at its discretion, contract for any services required to complete this Contract and hold Contractor liable for any excess cost caused by Contractor's default.

9.3.2 This provision shall not preclude the pursuit of other remedies for breach of contract as allowed by law.

9.3.3 DHHS' failure to make payment shall not be a breach, and the Contractor shall retain all available statutory remedies and protections.

10. DATA OWNERSHIP AND INTELLECTUAL PROPERTY.

- 10.1. *Data.* All data collected as a result of this project shall be the property of DHHS. If this Contract involves federal funds, the federal funding agency reserves the right to obtain, reproduce, publish, or otherwise use the data produced under this Contract, and to authorize others to receive, reproduce, publish, or otherwise use such data for federal purposes.
- 10.2. *Copyright.* Contractor shall not copyright any material produced in conjunction with the performance required under this Contract without written consent from DHHS. DHHS, and any federal funding agency (if this Contract involves federal funds), hereby reserve a royalty-free, nonexclusive, and irrevocable right, for federal or state government purposes, to reproduce, publish, or otherwise use, and to authorize others to use, the material produced in conjunction with this performance required under this Contract.
- 10.3. *Software and Patent Rights.* If this Contract involves federal funds:
- 10.3.1. All software ownership rights shall be consistent with 45 CFR § 95.617, if applicable, and with all other applicable federal law; and
- 10.3.2. All patent rights under this Contract shall be as set forth in the clause contained in 37 C.F.R. § 401.14, and consistent with all other applicable federal law.

11. DEBARMENT, SUSPENSION OR DECLARED INELIGIBLE. Contractor certifies that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any state or federal department or agency.

12. DOCUMENTS INCORPORATED BY REFERENCE. All references in this Contract to laws, rules, regulations, guidelines, directives, addenda, and attachments that set forth standards and procedures to be followed by Contractor in discharging its obligations under this Contract shall be deemed incorporated by reference and made a part of this Contract with the same force and effect as if set forth in full text herein.

13. DRUG-FREE WORKPLACE. Contractor certifies that it maintains a drug-free workplace environment to ensure worker safety and workplace integrity. Contractor shall provide a copy of its drug-free workplace policy at any time upon request by DHHS.

14. EARLY TERMINATION.

- 14.1. DHHS may terminate the Contract immediately for the following reasons:
- 14.1.1. If directed to do so by statute;
- 14.1.2. Contractor has made an assignment for the benefit of creditors, has admitted in writing its inability to pay debts as they mature, or has ceased operating in the normal course of business;
- 14.1.3. A trustee or receiver of Contractor or of any substantial part of Contractor's assets has been appointed by a court;
- 14.1.4. Fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under the Contract by its Contractor, its employees, officers, directors, or shareholders;
- 14.1.5. An involuntary proceeding has been commenced by any party against Contractor under any one of the chapters of Title 11 of the United States Code and (i) the proceeding has been pending for at least sixty (60) calendar days; or (ii) Contractor has consented, either expressly or by operation of law, to the entry of an order for relief, or (iii) Contractor has been decreed or adjudged a debtor;
- 14.1.6. A voluntary petition has been filed by Contractor under any of the Chapters of Title 11 of the United States Code;
- 14.1.7. Contractor intentionally discloses confidential information; or
- 14.1.8. Contractor has or announces it will discontinue support of the deliverable.
- 14.2. DHHS may also terminate this Contract in accord with any other provision of this Contract, as expressly stated in that provision.
- 14.3. In the event either party terminates this Contract for any reason, Contractor shall provide to DHHS all work in progress, work completed, and materials provided to it by DHHS in connection with this Contract immediately.

- 14.4. In the event of termination, the Contractor shall be entitled to payment, determined on a pro rata basis, for products or services satisfactorily performed or provided.
15. FEDERAL FINANCIAL ASSISTANCE. If this Contract involves federal funds, Contractor will comply with all applicable provisions of 45 C.F.R. §§ 87.1-87.2. Contractor shall not use direct federal financial assistance to engage in inherently religious activities, including but not limited to worship, religious instruction, or proselytization.
16. FEDERAL FUNDING AGENCY APPROVAL. If this Contract involves federal funds, and requires pre-approval by the federal funding agency, said approval is a condition precedent to this Contract and absent said approval, the Contract shall be considered void and unenforceable.
17. FORCE MAJEURE. Neither party shall be liable for any costs or damages resulting from its inability to perform any of its obligations under this Contract due to a natural disaster, or other similar event outside the control and not the fault of the affected party ("Force Majeure Event"). A Force Majeure Event shall not constitute a breach of this Contract. The party so affected shall immediately give notice to the other party of the Force Majeure Event. Upon such notice, all obligations of the affected party under this Contract which are reasonably related to the Force Majeure Event shall be suspended, and the affected party shall do everything reasonably necessary to resume performance as soon as possible. Labor disputes with the impacted party's own employees will not be considered a Force Majeure Event and will not suspend performance requirements under this Contract.
18. FUNDING AVAILABILITY. DHHS may terminate the Contract, in whole or in part, in the event funding is no longer available. Should funds not be appropriated, DHHS may terminate the Contract with respect to those payments for the fiscal years for which such funds are not appropriated. DHHS shall give Contractor written notice thirty calendar (30) days prior to the effective date of any termination. Contractor shall be entitled to receive just and equitable compensation for any authorized work that has been satisfactorily performed or provided as of the termination date. In no event shall Contractor be paid for a loss of anticipated profit.
19. GOVERNING LAW.
- 19.1. Notwithstanding any other provision of this Contract, or any amendment or addenda entered into contemporaneously or at a later time, the parties understand and agree that, (1) the State of Nebraska is a sovereign state and DHHS's authority to contract is therefore subject to limitation by the State's Constitution, statutes, common law, and regulation; (2) this Contract will be interpreted and enforced under the laws of the State of Nebraska; (3) any action to enforce the provisions of this Contract must be brought in the State of Nebraska per state law; (4) the person signing this Contract on behalf of DHHS does not have the authority to waive the State's sovereign immunity, statutes, common law, or regulations; (5) the indemnity, limitation of liability, remedy, and other similar provisions of the Contract, if any, are entered into subject to the State of Nebraska's Constitution, statutes, common law, regulations, and sovereign immunity; and, (6) all terms of the Contract, including but not limited to any clauses concerning third party use, licenses, warranties, limitations of liability, governing law and venue, usage verification, indemnity, liability, remedy or other similar provisions of the Contract are entered into specifically subject to the State of Nebraska's Constitution, statutes, common law, regulations, and sovereign immunity.
- 19.2. The parties shall comply with all applicable federal, state, county and municipal laws, ordinances, and rules and regulations in the performance of this Contract.
20. INDEMNIFICATION.
- 20.1. Contractor shall defend, indemnify, hold, and save harmless DHHS and its employees, volunteers, agents, and its elected and appointed officials ("the indemnified parties") from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses ("the claims"), sustained or asserted against DHHS, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of Contractor, its employees, subcontractors, consultants, representatives, and agents, except to the extent such Contractor liability is attenuated by any action of the DHHS that directly and proximately contributed to the claims.

- 20.2. Contractor shall, at its sole cost and expense, defend, indemnify, and hold harmless the indemnified parties from and against any and all claims, to the extent such claims arise out of, result from, or are attributable to, the actual or alleged infringement or misappropriation of any patent, copyright, trade secret, trademark, or confidential information of any third party by Contractor or its employees, subcontractors, consultants, representatives, and agents; provided, however, DHHS gives Contractor prompt notice in writing of the claim. Contractor may not settle any infringement claim that will affect the DHHS's use of the intellectual property used in the performance of this Contract without the DHHS's prior written consent, which consent may be withheld for any reason.
- 20.2.1. If a judgment or settlement is obtained or reasonably anticipated against the DHHS's use of any intellectual property for which Contractor has indemnified DHHS, Contractor shall, at Contractor's sole cost and expense, promptly modify the item or items which were determined to be infringing, acquire a license or licenses on the State's behalf to provide the necessary rights to DHHS to eliminate the infringement, or provide DHHS with a non-infringing substitute that provides DHHS the same functionality. At DHHS's election, the actual or anticipated judgment may be treated as a breach of warranty by Contractor, and DHHS may receive the remedies provided under this Contract.
- 20.3. DHHS's liability is limited to the extent provided by the Nebraska Tort Claims Act, the Nebraska Contract Claims Act, the Nebraska Miscellaneous Claims Act, and any other applicable provisions of law. DHHS does not assume liability for the action of its Contractors.
- 20.4. Contractor understands that the Nebraska Constitution, Article XIII, § 3, prohibits DHHS from indemnifying a private party. Any terms to the contrary set forth in any attachments included with this Contract regarding indemnification shall have no effect.
- 20.5. Notwithstanding the above, if Contractor is a constitutional officer, state agency, local governmental agency or political subdivision of the State of Nebraska, nothing in this Contract shall be construed as an indemnification by one party of the other for liabilities of a party or third parties for property loss or damage or death or personal injury arising out of and during the performance of this Contract. Any liabilities or claims for property loss or damages or for death or personal injury by a party or its agents, employees, contractors or assigns or by third persons shall be determined according to applicable law.

21. INDEPENDENT CONTRACTOR. Contractor is an independent contractor and neither it nor any of its employees shall for any purpose be deemed employees of DHHS. Contractor shall employ and direct such personnel as it requires to perform its obligations under this Contract, exercise full authority over its personnel, and comply with all workers' compensation, employer's liability and other federal, state, county, and municipal laws, ordinances, rules and regulations required of an employer providing services as contemplated by this Contract.

22. INTEGRATION. This written Contract, along with addenda and any attachments, represents the entire agreement between the parties, and any prior or contemporaneous representations, promises, or statements by the parties, which are not incorporated herein, shall not serve to vary or contradict the terms set forth in this Contract.

23. INVOICES AND PAYMENT.

23.1. *Invoices*. Invoices for payments submitted by Contractor shall contain sufficient detail to support payment. Any term included in Contractor's invoice shall be deemed to be solely for the convenience of the parties. No payment shall be made for any deliverable or cost unless specifically authorized in the terms of the Contract.

23.2. *Prompt Payment*. As applicable, payment shall be made in compliance with the Nebraska Prompt Payment Act, Neb. Rev. Stat. §§ 81-2401 et seq.

23.2.1. DHHS shall make payment in full for all goods delivered or services rendered on or before the forty-fifth (45<sup>th</sup>) calendar day after (a) the date of receipt by DHHS of the services or (b) the date of receipt by DHHS of the invoice for the services, whichever is later.

23.2.2. If DHHS is making payment for services provided for third parties, DHHS shall make payment in full for such services on or before the sixtieth (60<sup>th</sup>) calendar day after the date of receipt by DHHS of the invoice.

23.2.3. Unless otherwise provided herein, payment shall be made by electronic means.

23.3. *Automated Clearing House (ACH) Enrollment Form Requirements for Payment.* The vendor shall complete and sign the State of Nebraska ACH Enrollment Form and obtain the necessary information and signatures from their financial institution. The completed form must be submitted before payments to the vendor can be made. Download ACH Form: [http://das.nebraska.gov/accounting/nis/address\\_book\\_info.htm](http://das.nebraska.gov/accounting/nis/address_book_info.htm). Contractor must promptly notify DHHS of any changes to Contractor's ACH enrollment information.

23.4. *Interagency Billing Transaction.* Notwithstanding the paragraph immediately above, if Contractor is a state agency, payment may be made by Interagency Billing Transaction.

#### 24. LOBBYING.

24.1. As set forth in 45 CFR § 93 et seq.:

24.1.1. No federal appropriated funds shall be paid, by or on behalf of 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 Contract or (a) the awarding of any federal agreement; (b) the making of any Federal grant; (c) the entering into of any cooperative agreement; and (d) the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.

24.1.2. 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 Contract, Contractor shall complete and submit Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

24.2. If this Contract involves federal funds, and if the below is consistent with the terms of the applicable federal funding source of the Contract:

24.2.1. No funds under this Contract shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the Congress or any State or local legislature or legislative body, except in presentation of the Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.

24.2.2. No funds under this Contract shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the Congress or any State government, State legislature or local legislature or legislative body, other than normal and recognized executive legislative relationships or participation by an agency or officer of an State, local or tribal government in policymaking and administrative processes within the executive branch of that government.

24.2.3. The prohibitions in the two sections immediately above shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.

25. NEBRASKA NONRESIDENT INCOME TAX WITHHOLDING. Contractor acknowledges that Nebraska law requires DHHS to withhold Nebraska income tax if payments for personal services are made in excess of six hundred dollars (\$600) to any contractor who is not domiciled in Nebraska or has not maintained a permanent place of business or residence in Nebraska for a period of at least six months. This provision applies to individuals, to a corporation if 80% or more of the voting stock of the corporation is held by the shareholders who are performing personal services, and to a partnership or limited liability company if 80% or more of the capital interest or profits interest of the partnership or limited liability company is held by the partners or members who are performing personal services.

- 25.1. The parties agree, when applicable, to properly complete the Nebraska Department of Revenue Nebraska Withholding Certificate for Nonresident Individuals Form W-4NA or its successor. The form is available at: [http://www.revenue.nebraska.gov/tax/current/fill-in/f\\_w4na.pdf](http://www.revenue.nebraska.gov/tax/current/fill-in/f_w4na.pdf)
26. **NEBRASKA TECHNOLOGY ACCESS STANDARDS.** Contractor shall review the Nebraska Technology Access Standards, found at <http://www.nitc.nebraska.gov/standards/2-201.html> and ensure that products and/or services provided under the Contract comply with the applicable standards. In the event such standards change during Contractor's performance, the State may create an amendment to the Contract to request that Contract comply with the changed standard at a cost mutually acceptable to the parties. This section shall apply only if, under Neb. Rev. Stat. § 73-205, this Contract involves the expenditure of state funds in the purchase of information technology or an automated information system.
27. **NEW EMPLOYEE WORK ELIGIBILITY STATUS.** Contractor shall use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. § 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.
- 27.1. If Contractor is an individual or sole proprietorship, the following applies:
- 27.1.1. Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at <https://das.nebraska.gov>.
- 27.1.2. If Contractor indicates on such attestation form that he or she is a qualified alien, Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements Program.
- 27.1.3. Contractor understands and agrees that lawful presence in the United States is required and Contractor may be disqualified or the Contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. § 4-108.
28. **ORDER OF PREFERENCE.**
- 28.1. Unless otherwise specifically stated in a contract amendment, in case of any conflict between the incorporated documents, the documents shall govern in the following order of preference:
1. Amendments to the Contract with the most recently dated amendment having highest priority;
  2. The Contract, excluding attachments, with the following addenda in order of preference: DHHS General Terms – Services Contracts; DHHS HIPAA Business Associate Agreement Provisions – Services Contracts (if included); DHHS Insurance Requirements – Services Contracts.
  3. Any attachments to this Contract.
- 28.2. These documents constitute the entirety of the Contract. Any ambiguity or conflict in the Contract discovered after its execution, not otherwise addressed herein, shall be resolved in accordance with the rules of contract interpretation as established in the State of Nebraska.
29. **PUBLIC COUNSEL.** In the event Contractor provides health and human services to individuals on behalf of DHHS under the terms of this Contract, Contractor shall submit to the jurisdiction of the Public Counsel under Neb. Rev. Stat. §§ 81-8,240 through 81-8,254 with respect to the provision of services under this Contract. This provision shall not apply to contracts between DHHS and long-term care facilities subject to the jurisdiction of the state long-term care ombudsman pursuant to the Long-Term Care Ombudsman Act, Neb. Rev. Stat. §§ 73-401 et seq.
30. **RESEARCH.** Contractor shall not engage in research utilizing the information obtained through the performance of this Contract without the express written consent of DHHS. The term "research" shall mean the investigation, analysis, or review of information, other than aggregate statistical information, which is used for purposes unconnected with this Contract.
31. **SEVERABILITY.** If any term or condition of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms shall not be affected, and the rights

and obligations of the parties shall be construed and enforced as if this Contract did not contain the particular provision held to be invalid.

32. SUBCONTRACTORS. Contractor shall not subcontract any portion of this Contract without notice to DHHS. DHHS reserves the right to reject a subcontractor; such rejection shall not be arbitrary or capricious. Contractor shall ensure that all subcontractors comply with all requirements of this Contract and applicable federal, state, county and municipal laws, ordinances, rules and regulations.
33. SURVIVAL. All provisions hereof that by their nature are to be performed or complied with following the expiration or termination of this Contract, including but not limited to the obligations in the Confidentiality section, above, shall survive the expiration or termination of this Contract.
34. TAXPAYER TRANSPARENCY ACT. Pursuant to Neb. Rev. Stat. § 84-602.04, all state contracts including, at least in part, state funds, and that are in effect as of January 1, 2014, shall be posted on a public website. All non-proprietary and non-confidential information as defined by law will be posted for public viewing. Contractor hereby waives any copyrights for any material posted with this Contract, either as an attachment, schedule, or other subpart of this Contract, to the public website.
35. TIME IS OF THE ESSENCE. Time is of the essence in this Contract. The acceptance of late performance with or without objection or reservation by DHHS shall not waive any rights of DHHS nor constitute a waiver of the requirement of timely performance of any obligations on the part of Contractor remaining to be performed.
36. WHISTLEBLOWER PROTECTIONS. If this Contract involves federal funds, the Contractor shall comply with the provisions of 41 U.S.C. § 4712, which states an employee of a contractor, subcontractor, grantee, or subrecipient may not be discharged, demoted or otherwise discriminated against as a reprisal for "whistleblowing." In addition, whistleblower protections cannot be waived by any agreement, policy, form, or condition of employment.
  - 36.1. The Contractor's employees are encouraged to report fraud, waste, and abuse. The Contractor shall inform their employees in writing they are subject to federal whistleblower rights and remedies. This notification must be in the predominant native language of the workforce.
  - 36.2. The Contractor shall include this requirement in any agreement made with a subcontractor or subrecipient.