

**CONTRACT #5**  
**RFS # 344.01-03550**  
**FA # 12-37707**  
**Edison # 29904**

**Department of Intellectual and  
Developmental Disabilities**

**VENDOR:**  
**Guardian Healthcare Providers,  
Inc.**



STATE OF TENNESSEE  
DEPARTMENT OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES  
ANDREW JACKSON BUILDING  
500 DEADERICK STREET, SUITE 1500  
NASHVILLE, TENNESSEE 37243

September 26, 2012

Mr. Lucian Geise, Executive Director  
Fiscal Review Committee  
8th Floor, Rachel Jackson Building  
320 Sixth Avenue, North  
Nashville, Tennessee 37243

ATTENTION: Leni Chick

RE: Guardian Healthcare Providers, Inc.  
Contract Number FA1237707, Edison # 29904  
Request for Contract Amendment Review

RECEIVED

SEP 27 2012

FISCAL REVIEW

Dear Mr. Geise:

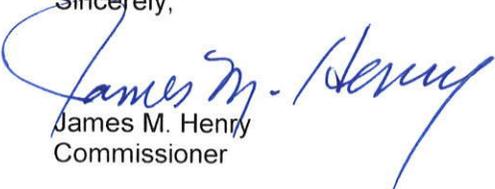
The Department of Intellectual and Developmental Disabilities (DIDD) is submitting proposed Amendment 1 to Contract # FA1237707, Edison # 29904 with Guardian Healthcare Providers, Inc. for review in accordance with TCA, Section 12-4-109 (a)(I)(G)(i) and (a)(I)(G)(ii).

The contract, awarded through the State's RFP process, began on December 1, 2011. Section B.2. of the contract provides the State the option to extend the contract for an additional one-year period of no more than a total contract term of two (2) years. Proposed Amendment 1 extends the contract term. This contractor is the secondary contractor for nursing services at Greene Valley Developmental Center. To this date this contract has not been utilized, however, the second contract for backup is necessary to ensure service delivery to the fragile individuals served under the primary contract for nursing services. The maximum liability amount is not expected to increase.

The proposed amendment and Non-Competitive Amendment Request is enclosed along with a copy of the base contract, completed "Supplemental Documentation Required for Fiscal Review Committee" form, and spreadsheets of expenditures and anticipated expenditures under this contract through the proposed ending date of November 30, 2013.

Please let me know if any additional information is required for review of this request. Your assistance for review of this proposed amendment is appreciated.

Sincerely,

  
James M. Henry  
Commissioner

JMH:dd

Enclosures

Supplemental Documentation Required for  
Fiscal Review Committee

*Contact Name:	Lance Iverson, Assistant Commissioner	*Contact Phone:	253-6710
*Original Contract Number:	FA1237707	*Original RFS Number:	34401-03550
Edison Contract Number: <i>(if applicable)</i>	29904	Edison RFS Number: <i>(if applicable)</i>	34401-03550
*Original Contract Begin Date:	12/1/2011	*Current End Date:	11/30/2012
Current Request Amendment Number: <i>(if applicable)</i>	1		
Proposed Amendment Effective Date: <i>(if applicable)</i>	12/1/2012		
*Department Submitting:	Department of Intellectual and Developmental Disabilities		
*Division:	Greene Valley Developmental Center		
*Date Submitted:	9/26/2012		
*Submitted Within Sixty (60) days: <i>If not, explain:</i>	Yes		
*Contract Vendor Name:	Guardian Healthcare Providers, Inc.		
*Current Maximum Liability:	\$1,440,173.00		
<b>*Current Contract Allocation by Fiscal Year:</b> <b><i>(as Shown on Most Current Fully Executed Contract Summary Sheet)</i></b>			
FY: 2012	FY: 2013		
\$350,513.00	\$1,089,660.00		
<b>*Current Total Expenditures by Fiscal Year of Contract:</b> <b><i>(attach backup documentation from STARS or FDAS report)</i></b>			
FY: 2012	FY: 2013		
0.00	0.00		
<b>IF</b> Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:		Guardian Healthcare Providers, Inc. is the secondary contractor for nursing services if the primary provider, Delta-T Group, Inc. cannot provide services as requested by the State. To date, this contract has not been utilized.	
<b>IF</b> surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:		N/A	
<b>IF</b> Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:		N/A	

Supplemental Documentation Required for  
Fiscal Review Committee

*Contract Funding Source/Amount:	State:	\$0.00	Federal:	0.00
Interdepartmental:	\$1,440,173.00	Other:		0.00
If "other" please define:				
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>		
N/A				
Method of Original Award: <i>(if applicable)</i>		RFP		
*What were the projected costs of the service for the entire term of the contract prior to contract award?		\$1,800,000.00 - \$1,900,000.00		

Department of Intellectual and Developmental Disabilities  
Payments to Guardian Inc for Contract 29904  
For period 12/01/2011 through 9/13/2012

Unit	Sum Amount	Edison Contract ID	Vendor ID	Vendor Name	PO ID	Voucher ID	Invoice	Date	Fiscal Year
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There aren't any Expenditures against this contract .

**Guardian Healthcare Providers, Inc.  
Edison Record 29904  
Actual and Anticipated Expenditures**

Sevice Description	# FTEs	# Hours per week	Total Hours per Week per Service Description	# Weeks	Total Hours per Service Description	Rate	Total Amount per Service Description	Total Amount
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**FY 2012**

Registered Nurse (RN)	0	0	0	0	0	\$35.95	\$0.00	
Licensed Practical Nurse (LPN)	0	0	0	0	0	\$27.94	\$0.00	
								\$0.00

**FY 2013**

**7/1/12 - 10/15/12**

Registered Nurse (RN)	0	0	0	0	0	\$35.95	\$0.00	
Licensed Practical Nurse (LPN)	0	0	0	0	0	\$27.94	\$0.00	
								\$0.00

**FY 2013**

**10/16/12 - 6/30/13**

**ANTICIPATED EXPENSES**

Registered Nurse (RN)	8	40	320	35	11,200	\$35.95	\$402,640.00	
Licensed Practical Nurse (LPN)	17	40	680	35	23,800	\$27.94	\$664,972.00	
								\$1,067,612.00

# Non-Competitive Amendment Request

APPROVED

Department of General Services, Central Procurement Office

<b>Request Tracking #</b>	34401-03550	
<b>1. Procuring Agency</b>	Department of Intellectual and Developmental Disabilities	
<b>2. Contractor</b>	Guardian Healthcare Providers, Inc.	
<b>3. Contract #</b>	FA1237707	
<b>4. Proposed Amendment #</b>	1	
<b>5. Edison ID #</b>	29904	
<b>6. Contract Begin Date</b>		12/1/2011
<b>7. Current Contract End Date</b> – with ALL options to extend exercised		11/30/2012
<b>8. Proposed Contract End Date</b> – with ALL options to extend exercised		6/30/2013
<b>9. Current Maximum Contract Cost</b> – with ALL options to extend exercised		\$ 1,440,173.00
<b>10. Proposed Maximum Contract Cost</b> – with ALL options to extend exercised		\$ 1,067,612.00
<b>11. Office for Information Resources Endorsement</b> – information technology service (N/A to THDA)	<input checked="" type="checkbox"/> Not Applicable	<input type="checkbox"/> Attached
<b>12. eHealth Initiative Support</b> – health-related professional, pharmaceutical, laboratory, or imaging	<input checked="" type="checkbox"/> Not Applicable	<input type="checkbox"/> Attached
<b>13. Human Resources Support</b> – state employee training service	<input checked="" type="checkbox"/> Not Applicable	<input type="checkbox"/> Attached
<b>14. Explanation Need for the Proposed Amendment</b>  DIDD desires to amend the contract for the extension of services.		
<b>15. Name &amp; Address of the Contractor's Principal Owner(s)</b> – NOT required for a TN state education institution  Susan L. Champion, regional Director of Operations Guardian Healthcare Providers, Inc. 545 Mainstream Drive, Suite 406 Nashville, Tennessee 37228 Telephone # 615-564-2983, ext 1		

<b>Request Tracking #</b>	<b>34401-03550</b>
<b>FAX # 615-564-2987</b>	
<b>16. Evidence Contractor's Experience &amp; Length Of Experience Providing the Service</b>	
<p><b>This Contractor has provided various health related services, including nursing services, for the DIDD Developmental Centers for at least 8 years.</b></p>	
<b>17. Efforts to Identify Reasonable, Competitive, Procurement Alternatives</b>	
<p><b>This contract was awarded competitively.</b></p>	
<b>18. Justification</b> – <i>specifically explain why non-competitive negotiation is in the best interest of the state</i>	
<p><b>A need continues to exist for nursing services.</b></p> <p><b>This contract was competitively procured through the State's RFP process to award the contract for a one-year term. Section B.2. provides the State with the option to extend the term.</b></p> <p><b>This amendment will extend the contract term for 7 months and decreases the maximum liability amount.</b></p>	
<p><b>Agency Head Signature and Date</b> – <i>MUST be signed by the ACTUAL agency head as detailed on the current Signature Certification. Signature by an authorized signatory is acceptable only in documented exigent circumstances</i></p>	



## CONTRACT AMENDMENT

<b>Agency Tracking #</b> 34401-03550	<b>Edison ID</b> 29904	<b>Contract #</b> FA1237707	<b>Amendment #</b> 1		
<b>Contractor Legal Entity Name</b> Guardian Healthcare Providers, Inc.			<b>Edison Vendor ID</b> 83271		
<b>Amendment Purpose &amp; Effect(s)</b> Extend contract term for 6 months					
<b>Amendment Changes Contract End Date:</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<b>End Date:</b> 6/30/2013			
<b>TOTAL Contract Amount INCREASE or DECREASE per this Amendment</b> (zero if N/A):			<b>- \$372,561.00</b>		
<b>Funding —</b>					
<b>FY</b>	<b>State</b>	<b>Federal</b>	<b>Interdepartmental</b>	<b>Other</b>	<b>TOTAL Contract Amount</b>
2012			0.00		0.00
2013			\$1,067,612.00		\$1,067,612.00
<b>TOTAL:</b>			<b>\$1,067,612.00</b>		<b>\$1,067,612.00</b>
<b>American Recovery and Reinvestment Act (ARRA) Funding:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					
<b>Budget Officer Confirmation:</b> There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.  Melinda Lanza 253-3166			OCR USE		
<b>Speed Chart</b> (optional)		<b>Account Code</b> (optional)			

**AMENDMENT 1  
OF CONTRACT FA1237707**

This Amendment is made and entered by and between the State of Tennessee, Department of Intellectual and Developmental Disabilities, hereinafter referred to as the "State" or "DIDD" and Guardian Healthcare Providers, Inc., hereinafter referred to as the "Contractor". It is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

- 1. Contract section B. is deleted in its entirety and replaced with the following:
  - B.1. This Contract shall be effective for the period beginning December 1, 2011, and ending on June 30, 2013. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor which were not performed within this specified contract period.
- 2. Contract section C.1. is deleted in its entirety and replaced with the following:
  - C.1. **Maximum Liability.** In no event shall the maximum liability of the State under this Contract exceed one million, sixty seven thousand, six hundred twelve dollars and no cents (\$1,067,612.00). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

Amendment Effective Date. The revisions set forth herein shall be effective December 1, 2012. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

**IN WITNESS WHEREOF,**

**GUARDIAN HEALTHCARE PROVIDERS, INC.:**

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**SIGNATURE**

**DATE**

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**PRINTED NAME AND TITLE OF SIGNATORY (above)**

**DEPARTMENT OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES:**

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**JAMES M. HENRY, COMMISSIONER**

**DATE**



# CONTRACT

(fee-for-service contract with an individual, business, non-profit, or governmental entity of another state)

Begin Date 12/1/2011	End Date 11/30/2012	Agency Tracking # 34401-03550	Edison Record ID 29904
Contractor Legal Entity Name Guardian Healthcare Providers, Inc.			Edison Vendor ID 83271

Service Caption (one line only)  
Temporary Nursing Services

Subrecipient or Vendor <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Vendor	CFDA #
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Funding FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2012			\$350,513.00		\$350,513.00
2013			\$1,089,660.00		\$1,089,660.00
TOTAL:			\$1,440,173.00		\$1,440,173.00

American Recovery and Reinvestment Act (ARRA) Funding:  YES  NO

Ownership/Control

African American     Asian     Hispanic     Native American     Female

Person w/Disability     Small Business     Government     NOT Minority/Disadvantaged

Other:

Selection Method & Process Summary (mark the correct response to confirm the associated summary)

RFP    The procurement process was completed in accordance with the approved RFP document and associated regulations.

Competitive Negotiation    The predefined, competitive, impartial, negotiation process was completed in accordance with the associated, approved procedures and evaluation criteria.

Alternative Competitive Method    The predefined, competitive, impartial, procurement process was completed in accordance with the associated, approved procedures and evaluation criteria.

Non-Competitive Negotiation    The non-competitive contractor selection was completed as approved, and the procurement process included a negotiation of best possible terms & price.

Other    The contractor selection was directed by law, court order, settlement agreement, or resulted from the state making the same agreement with all interested parties or all parties in a predetermined "class."

Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

*Molinda Lanza* 11/16/11  
Molinda Lanza 253-3166

OCR USE - FA  
**FA1237707**

Speed Chart (optional)	Account Code (optional)	Contract #		
Dept ID 344120001	Account 70804000	Location CF 30009	Program 544114	User Code 130500



**CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
DEPARTMENT OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES  
AND  
GUARDIAN HEALTHCARE PROVIDERS, INC.**

This Contract, by and between the State of Tennessee, Department of Intellectual and Developmental Disabilities, hereinafter referred to as the "State" or "DIDD" and Guardian Healthcare Providers, Inc., hereinafter referred to as the "Contractor," is for the provision of temporary nursing services, as further defined in the "SCOPE OF SERVICES."

The Contractor is a for-profit corporation.

Contractor Federal Employer Identification, Social Security, or Edison Registration ID # Number: 83271

Contractor Place of Incorporation or Organization: Tennessee

**A. SCOPE OF SERVICES:**

- A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.
- A.2. The Contractor shall provide temporary nursing services that include Professional Registered Nurses and Licensed Practical Nurses to supplement the State's staffing at the Greene Valley Developmental Center (GVDC).
- a. The Contractor(s) shall provide nursing services as required and described in the Scope of Services and in accordance with all terms and conditions specified in this Contract. The State shall not be obligated to use any particular minimum number of personnel. Quality patient care, in accordance with standards specified in this Contract, is to be provided as required, on-site 24-hours per day on each and every day of the calendar year.
  - b. When one or more individuals appropriately licensed to perform nursing services are needed at GVDC, the state shall contact the Primary Contractor with details of the exact staffing service needed (*i.e.*, the number of Professional Registered Nurses and/or the number of Licensed Practical Nurses as well as the period of assignment for each). Should the Primary Contractor be unable to supply the all required staffing, the state shall contact the Secondary Contractor to supply any additional staffing still required.
- A.3. The Contractor shall only assign staff to provide service at GVDC who are physically able to perform all essential job functions and who meet the following minimum educational, training, and experience requirements. Each nurse placed at GVDC:
- a. shall have graduated from an accredited School of Nursing;
  - b. shall hold a current, active license in good standing from the State of Tennessee as a Professional Registered Nurse or as a Licensed Practical Nurse;
  - c. shall be current, in accordance with the Tennessee Board of Nursing Licensure Rules, with the designated number of continuing education for license renewal hours required;
  - d. shall have at least two (2) years of hospital and/or home health medical-surgical nursing experience;
  - e. shall have completed an Evidence Based Testing assessment used to indicate the ability to perform critical thinking in relation to gathering, organizing, analyzing, and evaluating patient information for making critical decisions about patient care;
  - f. shall be qualified in cardio-pulmonary resuscitation and currently certified by the American Heart or Red Cross Cardio-Pulmonary Resuscitation (CPR)/AED Training; and,



g. shall have completed the following GVDC Nursing Staff Pre-service Training curriculum (which the state shall make available no more often than monthly upon Contractor request):

- Protection From Harm
- Fire/Safety
- Seizure Management
- Medication Administration
- Mental Illness
- Restraints
- Dangerous Mealtime Practices
- Standard Precautions
- Respectful Workplace for Staff/Supervisors
- Tennessee Best Practice Guidelines
- Individual Support Plan (ISP) and Person Centered Practices
- Sign Language/Communication

**Prior to the assignment of a nurse at GVDC under this Contract, the Contractor MUST provide written documentation verifying that the nurse has met ALL of the requirements of this section.**

A.4. The Contractor shall provide, upon state request and as required, nursing staff who shall be responsible for the delivery of service as detailed herein.

a. Each Professional Registered Nurse serving as a staff nurse shall be responsible for the delivery of continuous and comprehensive nursing services which are consistent with current standards of nursing practice, including Developmental Disabilities Nursing Practice Standards and Tennessee Best Practice Guidelines (see Section A.9.c. and Section A.9.d. of this Contract), to a designated number of individuals who reside at GVDC, as further specified below:

(1) Assessment:

- i. recognizes or responds to reported changes in health status;
- ii. provides health status assessments appropriate to individual needs and based upon sound nursing judgment;
- iii. recognizes significant changes in health needs; and
- iv. assures completion of periodic health status assessments to include:
  - admission nursing assessments;
  - assessments associated with transfers in and out of residential living areas;
  - annual nursing assessments;
  - review and signing of quarterly nursing assessments; and
  - nursing progress notes recorded at a frequency appropriate to individual needs.

(2) Diagnoses:

- i. establishes a set of nursing diagnoses for each individual assigned, based upon assessment data, particularly areas which include nutritional, behavioral, or adverse responses to drugs; and
- ii. revises nursing diagnoses as they change during periodic review or at the time of acute health problems.

(3) Planning:



- i. develops a nursing care plan with outcome oriented goals and goal-directed interventions specific to each assigned individual's needs;
- ii. assures that the nursing plan is consistent with the total active treatment plan outlined in each individual's Individual Health Plan;
- iii. revises the care plan annually with review and updates at least quarterly, or as determined by changes in health status;
- iv. documents care plan implementation on appropriate forms in accordance with facility policies and procedures; and
- v. Assures that goals and objectives of the care plan are communicated to other members of the interdisciplinary team as warranted.

(4) Implementation:

- i. assures that assessment data is accessible, communicated, and recorded according to State and Federal laws and regulations and facility policies and procedures;
- ii. physician's orders:
  - transcribes and implements physician's orders according to accepted nursing practice guidelines and facility policies and procedures;
  - collects specimens as appropriate in accordance with nursing practice standards, State and Federal laws and regulations and facility policies and procedures; and
  - notifies the physician within appropriate time frames of the results of tests/consultations and consultant recommendations;
- iii. administers and monitors prescribed controlled and non-controlled medications without supervision;
  - monitors response to treatment;
  - documents treatment administration;
  - notifies prescribing or on-call physician of any untoward response to treatment;
  - starts and monitors all intravenous medications; and
  - reviews medications administration records monthly;
- iv. acts as liaison between primary care physician and other members of the interdisciplinary team when the physician is not directly available;
- v. supervises Licensed Practical Nurses in the implementation of the nursing process;
- vi. participates in interdisciplinary shift-to-shift reporting, person centered meetings, general staff meetings, nursing staff meetings, interdisciplinary team meetings, and other means to maintain communications;
- vii. provides one-on-one healthcare consultation to supportive living unit staff to ensure compliance with each individual's healthcare needs;
- viii. responds to emergencies in a timely manner and provides interventions as warranted;
- ix. requisitions, inventories, maintains, and safeguards medical equipment and supplies, including emergency medical equipment;
- x. requisitions, inventories, maintains, and safeguards medications and nutritional supplements and medication requisitions for individuals on a weekly basis;
- xi. monitors each individual's environment for safety and health hazards and makes recommendations and/or files appropriate reports regarding needed corrections; and
- xii. maintains a current, individualized health record that reflects the health status of each individual.

(5) Evaluation:

- i. evaluates responses of individuals to nursing actions and revises assessment data base; and



- ii. compares progress to stated goals and objectives.
- (6) Other:
- i. participates in committee meetings or other activities as assigned;
  - ii. audits individual charts for completeness and adherence to current treatment plan;
  - iii. provides healthcare consultation to individuals who reside at GVDC and to their family members as warranted;
  - iv. makes recommendations for evaluations and disciplinary actions for Licensed Practical Nurses and supportive living unit staff;
  - v. maintains current knowledge of assigned individual's ISP;
  - vi. monitors compliance to individualized mealtime programs;
  - vii. requests interdisciplinary team meetings for individuals as needed based upon changes in healthcare status;
  - viii. participates in in-service training as assigned and as required by State and Federal statute and facility policies and procedures; and
  - ix. completes other duties as assigned.
- b. Each Licensed Practical Nurse serving as a staff nurse shall be responsible for the delivery of continuous and comprehensive nursing services, which are consistent with current standards of nursing practice, including Developmental Disabilities Nursing Practice Standards and Tennessee Nursing Best Practice Guidelines see Section A.9.c. and Section A.9.d. of this Contract), to a designated number of individuals who reside at GVDC, as further specified below:
- (1) Contributes to the Nursing assessment by collecting data,
- i. recognizes or responds to reported changes in health status;
  - ii. provides health status assessments appropriate to individual needs and based upon sound nursing judgment;
  - iii. recognizes significant changes in health needs;
  - iv. assures completion of periodic health status assessments to include:
    - assessments associated with transfers in and out of residential living areas;
    - annual nursing assessments;
    - quarterly nursing assessments, obtaining the Registered Nurse's signature; and
    - nursing progress notes recorded at a frequency appropriate to individual needs;
  - v. documents care plan implementation on appropriate forms in accordance with facility policies and procedures; and
  - vi. assures that goals and objectives of the care plan are communicated to other members of the interdisciplinary team as warranted.
- (2) Implementation:
- i. assures that assessment data is accessible, communicated, and recorded according to State and Federal laws and regulations and facility policies and procedures;
  - ii. physician's orders:
    - transcribes and implements physician's orders according to accepted nursing practice guidelines and facility policies and procedures;
    - collects specimens as appropriate in accordance with nursing practice standards, State and Federal laws and regulations and facility policies and procedures; and
    - notifies the physician within appropriate time frames of the results of tests/consultations and consultant recommendations;



- iii. administers and monitors prescribed medications and treatments:
    - monitors response to treatment;
    - documents treatment administration; and
    - notifies prescribing or on-call physician of any untoward response to treatment;
  - iv. participates in interdisciplinary shift-to-shift reporting, person centered meetings, general staff meetings, nursing staff meetings, interdisciplinary team meetings, and other means to maintain communications;
  - v. provides one-on-one healthcare instruction to supportive living unit staff to ensure compliance with each individual's healthcare needs;
  - vi. responds to emergencies in a timely manner and provides interventions as warranted; and
  - vii. requisitions, inventories, maintains, and safeguards medications and nutritional supplements and medication requisitions for individuals on a weekly basis.
- A.5. Contract staff must be able to communicate effectively in the English language through both written and verbal means.
- A.6. The Contractor agrees that its staff shall not provide any services pursuant to this Contract until the following conditions are met:
- a. Contract staff have been screened and deemed qualified and suitable by the Contractor in accordance with the provisions of this Contract.
  - b. The GVDC Director of Nursing Services, or designee, has reviewed the Contractor-provided documentation (pursuant to section A.3., above) of the credentials of Contract staff and, if deemed necessary, has personally interviewed such individual (the Contractor shall coordinate any personal interviews between contract staff and the GVDC Director of Nursing Services).
  - c. The Contractor shall conduct an investigation to ensure that contract staff can perform the duties as specified in this Contract and meet all state requirements, including but not limited to the following.
    - (1) The Contractor shall comply with all requirements of *Tennessee Code Annotated*, Section 33-2-1202, and shall obtain, for each nurse to be placed at GVDC, a criminal background check and/or fingerprint check from the Tennessee Bureau of Investigation or, as an alternative, a criminal background check from a licensed private investigation company. This investigation shall be conducted at the Contractor's expense, and documentation of the results shall be provided to the state prior to placement.
    - (2) The Contractor shall verify through the State of *Tennessee* website or other appropriate databases that each person having direct contact with or direct responsibility for service recipients is NOT listed on:
      - i. the Tennessee Department of Health Elderly or Vulnerable Abuse Registry (the Department of Health pursuant to *Tennessee Code Annotated*, Section 68-11-1001 *et. seq.* maintains this registry for individuals substantiated for abuse, neglect, mistreatment and exploitation of vulnerable persons, which includes persons with intellectual disabilities, and the law contains all pertinent provisions for notice to individuals and procedures for an administrative appeal before any registry placement);
      - ii. the Tennessee Sexual Offender List (which is maintained pursuant to *Tennessee Code Annotated*, Section 40-39-201, *et seq.* and provides a list of individuals convicted by a court of law of sexual offenses in



Tennessee or who have been judicially determined to have some other sort of qualifying condition (such sexual offenses are contained in the law and in *Tennessee Code Annotated*, Title 39 of the state criminal code)); and

- iii. the Tennessee Felony Offender Information Lookup (FOIL) (NOTE: Information available on this list pertains to Tennessee felony offenders who are or who have been in the custody of the Tennessee Department of Correction or under the Supervision of the Tennessee Board of Probation and Parole and is submitted by various jurisdictions within Tennessee. Confirmation and/or elaboration should be obtained from the originating jurisdiction).
- A.7. The Contractor shall ensure that services provided under this Contract are in compliance with GVDC residents' Individual Support Plans, which are provided to the Contractor by the State.
  - A.8. The State shall be the sole judge of contract staff performance. The Contractor agrees to remove, at contractor expense, any contract staff judged by the State as not providing satisfactory services upon written request from the State.
  - A.9. The Contractor shall NOT remove or transfer any contract staff who are providing satisfactory services during a period of assignment at GVDC without prior written approval of the State.
  - A.10. The Contractor agrees that all service by contract staff will meet or surpass standards for quality of services as specified in the following standards and laws:
    - a. *Title XIX, Medical Regulations for Intermediate Care Facilities for Persons with Mental Retardation;*
    - b. *The Settlement Agreement as applicable, entered by the United States District Court for the Middle District of Tennessee in People First v. Clover Bottom, et al, relating to Clover Bottom Developmental Center, Greene Valley Developmental Center, and Nat T. Winston Developmental Center;*
    - c. *Developmental Disabilities Nursing Practice Standards* (Copyright 1995 Developmental Disabilities Nurses Association) as established by the National Developmental Disabilities Nurses Association;
    - d. Tennessee Best Practice Guidelines as established by the DIDD Services;
    - e. DIDD Policies and Procedures; and
    - f. Title 33, *Tennessee Code Annotated*.

**B. CONTRACT PERIOD:**

- B.1. Term. This Contract shall be effective for the period beginning December 1, 2011 and ending on November 30, 2012. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor which were not performed within this specified contract period.
- B.2. Term Extension. The State reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than two (2) years, provided that such an extension of the contract term is effected prior to the current, contract expiration date by means of a contract amendment. If a term extension necessitates additional funding beyond that which was included in the original Contract, an increase of the State's maximum liability will also be effected through contract amendment, and shall be based upon payment rates provided in the original Contract.



**C. PAYMENT TERMS AND CONDITIONS:**

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed one million, four hundred forty thousand, one hundred seventy three dollars, and no cents (\$1,440,173.00). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in section C.1.

- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in section A.
- b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

Service Description	Amount (per compensable increment)	
	12/1/2011 – 11/30/2012	12/1/2012 – 11/30/2013
Professional Registered Nurse (refer to contract section A.4.a.)	\$ 35.95 per Hour	\$ 35.95 per Hour
Licensed Practical Nurse (refer to contract section A.4.b.)	\$ 27.94 per Hour	\$ 27.94 per Hour

- c. The Contractor shall not be compensated for travel time to the primary location of service provision.
- d. During the first thirty (30) calendar days of this Contract, the Contractor may bill the State at the appropriate contract rates detailed above for nursing staff time in training pursuant to contract section A.3.g.. After the first thirty (30) calendar days of this Contract, the Contractor shall not be compensated for nursing staff training time required for compliance with contract section A.3.g. (such being at only at the Contractor's expense).

C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.

C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in section C.3, above, and present said invoices no more



often than monthly, with all necessary supporting documentation, to:

Accounts Payable  
Greene Valley Developmental Center  
P. O. Box 910  
Greeneville, Tennessee 37744-0910

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (1) Invoice Number (assigned by the Contractor)
  - (2) Invoice Date
  - (3) Contract Number (assigned by the State)
  - (4) Customer Account Name: Department of Intellectual and Developmental Disabilities
  - (5) Customer Account Number (assigned by the Contractor to the above-referenced Customer)
  - (6) Contractor Name
  - (7) Contractor Federal Employer Identification, Social Security, or Tennessee Edison Registration ID Number Referenced in Preamble of this Contract
  - (8) Contractor Contact for Invoice Questions (name, phone, and/or fax)
  - (9) Contractor Remittance Address
  - (10) Description of Delivered Service
  - (11) Complete Itemization of Charges, which shall detail the following:
    - i. Service or Milestone Description (including name & title as applicable) of each service invoiced
    - ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced
    - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced
    - iv. Amount Due by Service
    - v. Total Amount Due for the invoice period
- b. The Contractor understands and agrees that an invoice under this Contract shall:
- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
  - (2) only be submitted for completed service and shall not include any charge for future work;
  - (3) not include sales tax or shipping charges; and
  - (4) initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.
- C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.
- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.
- C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of

Tennessee any amounts, which are or shall become due and payable to the State of Tennessee by the Contractor.

- C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following documentation properly completed.
- a. The Contractor shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once said form is received by the State, all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH).
  - b. The Contractor shall complete, sign, and present to the State a "Substitute W-9 Form" provided by the State. The taxpayer identification number detailed by said form must agree with the Contractor's Federal Employer Identification Number or Tennessee Edison Registration ID referenced in this Contract.

**D. STANDARD TERMS AND CONDITIONS:**

- D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or



consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six months has been, an employee of the State of Tennessee.

- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Prohibition of Illegal Immigrants. The requirements of *Tennessee Code Annotated*, Section 12-4-124, *et seq.*, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment 1, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the Contractor and made available to state officials upon request.
  - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the Contractor and made available to state officials upon request.
  - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
  - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of *Tennessee Code Annotated*, Section 12-4-124, *et seq.* for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
  - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.



- D.9. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.
- D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.15. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

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- D.19. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

**E. SPECIAL TERMS AND CONDITIONS:**

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

JoAnn Thompson, RN, Director of Nursing  
Department of Intellectual and Developmental Disabilities  
Greene Valley Developmental Center  
4850 E. Andrew Johnson Hwy. (37745)  
P. O. Box 910  
Greeneville, Tennessee 37744-0910  
JoAnn.Thompson@tn.gov  
Telephone # 423-787-6663  
FAX # 423-787-6574

The Contractor:

Susan L. Champion, Regional Director of Operations  
Guardian Healthcare Providers, Inc.  
545 Mainstream Drive, Suite 406  
Nashville, Tennessee 37228  
schampion@guardianhealthcare.com  
Telephone # 615-564-2983, ext.1  
FAX # 615-564-2987

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

E.4. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.

E.5. Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance.

a. The Contractor shall maintain, at minimum, the following insurance coverage:

(1) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) aggregate.

b. At any time State may require the Contractor to provide a valid Certificate of Insurance detailing Coverage Description; Insurance Company & Policy Number; Exceptions and Exclusions; Policy Effective Date; Policy Expiration Date; Limit(s) of Liability; and Name and Address of Insured. Failure to provide required evidence of insurance coverage shall be a material breach of this Contract.

E.6. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

E.7. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.



- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract.
- b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
- c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.

E.8. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below.

- a. this Contract document with any attachments or exhibits (excluding the items listed at subsections b. through e., below);
- b. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
- c. the State solicitation, as may be amended, requesting proposals in competition for this Contract;
- d. any technical specifications provided to proposers during the procurement process to award this Contract;
- e. the Contractor's proposal seeking this Contract.

E.9. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed. It is expressly understood and agreed that the obligations set forth in this section shall survive the termination of this Contract in perpetuity.

E.10. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.



- c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, *U.S. Code*.

E.11. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

E.12. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by *Tennessee Code Annotated*, Section 8-6-106.

E.13. Unencumbered Personnel. All persons assigned by the Contractor to perform services for the State under this Contract, whether they are employees, agents, subcontractors, or principals of the Contractor, shall not be subject to any employment contract or restrictive covenant provisions which would preclude those persons from performing the same or similar services for the State after the termination of this Contract, either as a State employee, an independent contractor, or an employee, agent, subcontractor or principal of another contractor with the State. If the

Contractor provides the State with the services of any person subject to a restrictive covenant or contractual provision in violation of this provision, any such restrictive covenant or contractual provision will be void and unenforceable, and the Contractor will pay the State and any person involved all of its expenses, including attorneys fees, caused by attempts to enforce such provisions.

- E.14. Books, Documents, Papers, and Records Subject to review by State and Federal Government. The State of Tennessee Department of Finance and Administration Bureau of TennCare, the State of Tennessee Department of Intellectual and Developmental Disabilities, the State of Tennessee Comptroller of the Treasury, the United States Comptroller General, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to a specific program for the purpose of making audits, examination, excerpts and transcriptions.
- E.15. Drug Testing. Contractor staff will be subject to periodic random drug tests in accordance with State policy.

IN WITNESS WHEREOF,

GUARDIAN HEALTHCARE PROVIDERS, INC.:

*Susan L. Champion* *COO/Secretary* *12/9/11*  
\_\_\_\_\_  
CONTRACTOR SIGNATURE DATE  
*Renee McGee* *Secretary: Chief Operations Officer*  
~~SUSAN L. CHAMPION, REGIONAL DIRECTOR OF OPERATIONS~~  
\_\_\_\_\_  
PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

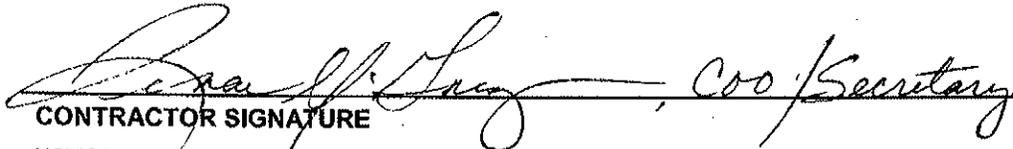
DEPARTMENT OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES:

*James M. Henry* *11/29/11*  
\_\_\_\_\_  
JAMES M. HENRY, COMMISSIONER DATE

### ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	Guardian Healthcare Providers, Inc.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	62-1494290

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

 *Renae McGregor, COO/Secretary*  
 \_\_\_\_\_  
**CONTRACTOR SIGNATURE**

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

*Renae McGregor, Chief Operations Officer/Secretary*  
 \_\_\_\_\_  
**PRINTED NAME AND TITLE OF SIGNATORY**

*12/9/11*  
 \_\_\_\_\_  
**DATE OF ATTESTATION**