

CONTRACT #3
RFS # 359.10-50042
Edison # 38925

**Department of Children's
Services**

VENDOR:
Foothills Care, Inc.



STATE OF TENNESSEE

DEPARTMENT OF CHILDREN'S SERVICES

**Bill Haslam
Governor**

**James M. Henry
Commissioner**

MEMORANDUM

To: Leni Chick, Contract and Audit Coordinator
Fiscal Review Committee

From: Suzanne G. White, Director of Contracts Management

Date: July 01, 2014

Subject: Name Change – Foothills Care, Inc. to Omni Community Health, Inc. (38925)

Please find as accompaniments to this summary memo the various supporting materials necessary to review the amendment request to contract # 38925 for the delivery of Case Management Services. The amendment seeks to initiate a Name Change from Foothills Care, Inc. to Omni Community Health, Inc. The change is expected to occur on September 01, 2014.

The request is within the 60-day requirement.

Your consideration of this request is appreciated.



Supplemental Documentation Required for
Fiscal Review Committee

*Contact Name:	Suzanne White	*Contact Phone:	615-741-0581		
*Presenter's name(s):	Douglas Swisher				
Edison Contract Number: <i>(if applicable)</i>	38925	RFS Number: <i>(if applicable)</i>	35910-50042		
*Original or Proposed Contract Begin Date:	October 01, 2013	*Current or Proposed End Date:	June 30, 2018		
Current Request Amendment Number: <i>(if applicable)</i>	1				
Proposed Amendment Effective Date: <i>(if applicable)</i>	September 01, 2014				
*Department Submitting:	Department of Children's Services				
*Division:	Contracts Management				
*Date Submitted:	July 01, 2014				
*Submitted Within Sixty (60) days:	Yes				
<i>If not, explain:</i>					
*Contract Vendor Name:	Omni Community Health, Inc.				
*Current or Proposed Maximum Liability:	\$7,300,000.00				
*Estimated Total Spend for Commodities:	N/A				
*Current or Proposed Contract Allocation by Fiscal Year: <i>(as Shown on Most Current Fully Executed Contract Summary Sheet)</i>					
FY:2014	FY:2015	FY:2016	FY:2017	FY2018	FY
\$1,460,000.00	\$1,460,000.00	\$1,460,000.00	\$1,460,000.00	\$1,460,000.00	\$
*Current Total Expenditures by Fiscal Year of Contract: <i>(attach backup documentation from Edison)</i>					
FY:2014	FY:	FY:	FY:	FY	FY
\$421,840.00	\$	\$	\$	\$	\$
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:			Surplus funds reverted to the General funds		
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:			Services were procured through a Request for Proposal.		
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding			N/A		

Supplemental Documentation Required for
Fiscal Review Committee

was acquired to pay the overage:			
*Contract Funding Source/Amount:			
State:	\$1,825,000.00	Federal:	0.00
<i>Interdepartmental:</i>	\$5,475,000.00,	<i>Other:</i>	0.00
If "other" please define:		N/A	
If "interdepartmental" please define:		TnCare	
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>	
Method of Original Award: <i>(if applicable)</i>		Request for Proposal (RFP)	
*What were the projected costs of the service for the entire term of the contract prior to contract award? How was this cost determined?		Projected cost was established at \$7,300,000.00. The Department estimated the need was based on annual turnover slots of 200 for the East Tennessee Grand Region (East, Knox, Smoky, Tennessee Valley & East). See Attachment A.	
*List number of other potential vendors who could provide this good or service; efforts to identify other competitive procurement alternatives; and the reason(s) a sole-source contract is in the best interest of the State.		Services were procured through a Request for Proposal.	

Justification For Utilization

The Case Management contracts were developed in an effort to maintain compliance with the Brian A Settlement Agreement as it relates to caseload caps for Case Managers in the field (Civ. Act. 3:00-0445 <http://www.documentcloud.org/documents/486453-brian-a-vs-bill-haslam-modified-settlement.html>, Section V. Staff Qualifications, Training, Caseloads, and Supervision, page 8). Given the nature of Child Welfare there is an anticipated high incidence of turn over due to a myriad of reasons – resignations, FLMA & maternity leave as well as personnel actions. The turnover is especially prevalent in certain areas of the State and changes indiscriminately. The Case Management contract allows the Department to fill the gaps when the turnover results in an increase in caseload assignments that violates the Brian A mandated caps.

Since the shifts in caseloads occur indiscriminately and inconsistently across the State, the Department has instituted this external contract that allows access to trained professional case managers that can temporarily assume the responsibility for case management and maintain the Department's compliance with the Brian A. Settlement Agreement.

As you may know, the hiring and training of Case Manager takes a fairly significant amount of time. Case Managers must go through the hiring process, attend pre-service training of 160 hours and shadow an experienced case worker prior to the assignment of a caseload. All these factors contribute to the necessity for the Case Management contracts.

As you will note, there has been slow start in terms of the utilization of the Case Management contracts. There are several reasons for the underutilization:

- The Case Management contract was effective October 01, 2014. However, the process of implementation takes time in order to build up to full capacity. Regions have to identify the cases that meet the criteria for the services, information has to be gathered and shared prior to the full transition of the case.
- As mentioned previously, the need for this service is dependent on the turnover rate in each region. In some regions and parts of the state there has been significant turnover in others there has been only modest turnover.
- Another contributing factor to the low utilization of the contracts for the first year of implementation is that this contract began on October 01, 2014. Full implementation did not occur until around February.
- There are still significant outstanding invoices that have not been billed under this contract.

It is the Department's view that the need for these contracts is critical for the reasons articulated. Furthermore, it is our contention that these contracts will see a more robust utilization now that the process has been fully implemented. It is the Department's hope that the need for these contracts will eventually diminish over time as we focus more attention on staff retention. Your consideration of the name change request is very much appreciated.

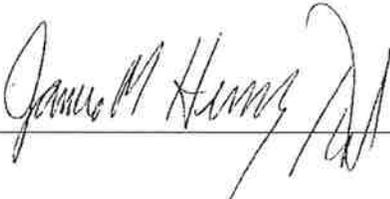
Amendment Request

Route a completed request, as one file in PDF format, via e-mail attachment sent to: Agsprr.Agspr@tn.gov

(Handwritten initials)

APPROVED
Michael F. Perry
 7/3/14
 CHIEF PROCUREMENT OFFICER
 DATE

Request Tracking #	35910-50042	
1. Procuring Agency	Department of Children's Services	
2. Contractor	Omni Community Health, Inc.	
3. Contract #	38925	
4. Proposed Amendment #	1	
5. Edison ID #	85318	
6. Contract Begin Date	October 01, 2013	
7. Current Contract End Date - with ALL options to extend exercised	June 30, 2018	
8. Proposed Contract End Date - with ALL options to extend exercised	June 30, 2018	
9. Current Maximum Contract Cost - with ALL options to extend exercised	\$ 7,300,000.00	
10. Proposed Maximum Contract Cost - with ALL options to extend exercised	\$ 7,300,000.00	
11. Office for Information Resources Pre-Approval Endorsement Request - information technology service (N/A to THDA)	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
12. eHealth Pre-Approval Endorsement Request - health-related professional, pharmaceutical, laboratory, or imaging	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
13. Human Resources Pre-Approval Endorsement Request - state employee training service	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
14. Explanation Need for the Proposed Amendment	Name change from Foothills Care, Inc. to Omni Community Health, Inc.	
15. Name & Address of the Contractor's Principal Owner(s) - NOT required for a TN state education institution	Eric Strickland, President Omni Visions, Inc. 301 South Perimeter Park, Ste. 210	

Request Tracking #	35910-50040
Nashville, TN 37211	
<p>16. Evidence Contractor's Experience & Length Of Experience Providing the Goods or Services</p> <p>Omni Visions, Inc. is the parent company of Omni Community Health, Inc. Omni began in 1991 to meet the needs of families and children in Tennessee. The program initially focused on training families to provide treatment foster care and adoption to children who were placed out of state and in long-term psychiatric and residential treatment. A network of specially trained and supported foster and adoptive homes was developed to successfully meet the needs of these children and families. In 1996, Omni Visions moved to providing level two (2) and level three (3) continuum of care services for the State of Tennessee. Under the continuum model, children and their families receive an array of individualized services through residential treatment facilities, treatment foster homes, and intensive in-home services. Omni Visions offers a statewide network of out of home placements, including over seven hundred fifty (750) treatment foster and adoptive homes and fifteen (15) collaborating Residential Treatment Facilities. Each facility is credentialed by a national accrediting agency, operates a Department of Education approved school, and has specialized mental health professionals to meet the individual needs of children and their families. Omni Visions also has a statewide network of licensed therapists, mentors, tutors, behavioral specialists, and other supporting staff to help families and youth meet their highest potential with local, individualized resources.</p> <p>In 2007, Omni Visions formed a partnership with Foothills Care, expanding in-home support services, case management and outpatient treatment services to adults, children and families throughout Tennessee. These services include: FAST TRACKS short-term case management; relative caregiver program, transitional living program, outpatient services, and school based intervention services.</p>	
<p>17. Efforts to Identify Reasonable, Competitive, Procurement Alternatives</p> <p style="text-align: center;">Name Change Only</p>	
<p>18. Justification</p> <p style="text-align: center;">Name Change Only</p>	
<p>Agency Head Signature and Date – <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 circumstances</i></p> <div style="text-align: center; margin-top: 20px;">  6/20/14 </div>	



Omni Visions

301 S. Perimeter Park Dr., Ste. 210 • Nashville, Tennessee 37211 • 615.726.3603

June 24, 2014

BY EMAIL AND MAIL

Suzanne G. White, MS
Director of Contracts Management
Cordell Hull Building, 7th Floor
436 6th Avenue, North
Nashville, TN 37243

Re: Foothills Care, Inc. Contracts

Dear Ms. White:

I am the President of Omni Visions, Inc., a Tennessee corporation ("OVI"), which is the parent corporation and sole shareholder of its two subsidiaries, Foothills Care, Inc. and Omni Community Health, Inc., both Tennessee corporations and both of which are presently licensed providers with the State of Tennessee Department of Children's Services and other state agencies. This letter is in partial response to your email dated June 20, 2014 to Jim Pedigo of Foothills Care, Inc. ("FHC") in which you requested that Mr. Pedigo send you copies of legal documents regarding a name change of FHC that Mr. Pedigo had indicated would become effective September 1, 2014.

In an effort to simplify its organizational structure, the Board of Directors of OVI has approved a corporate restructuring plan by which at the appropriate time in the future (we are targeting September 1, 2014), FHC will merge with and into Omni Community Health, Inc. ("OCH") as a result of which merger OCH will be the surviving corporation and will succeed to all the rights and privileges of FHC and will own all of FHC's assets (including its provider agreements and other contracts). Both before and after this merger (the "Merger"), OCH will be a wholly owned subsidiary of OVI. However, as a result of the Merger, FHC will no longer exist legally but OCH will continue its business. This will simplify OVI's organizational structure by elimination of one subsidiary but will not affect the business previously conducted by FHC, which will be conducted by OCH after the Merger.

Because of "change of control" and similar limitations in the provider contracts to which FHC is a party, we will need approval from the Department of Children's Services and other appropriate agencies before legal documents as to the Merger can be filed with the Office of the Tennessee Secretary of State ("SOS") as required by Tennessee corporate law. If you ask us to do so, we will provide you with copies of the merger documents after filing with the SOS. If you want to review and approve drafts of these documents before filing with the SOS, we will



Suzanne G. White, MS
June 25, 2014
Page 2

send these documents for your advance review and approval. If you are comfortable in doing so, a conditional letter of approval of the Merger based on our filing with the SOS of the Merger-related documents that your office has reviewed and approved will be sufficient to allow us to proceed with the Merger.

Regardless, we cannot proceed with the Merger until we receive approvals to avoid any default or breach of any FHC (or OCH) provider agreements as a result of the proposed transaction. Keep in mind that the sole shareholder of OCH will remain the same before and after the Merger and that the new entity that will be responsible for performance under the FHC agreements will be owned by OVI as is FHC at the present time.

Although I am happy to provide you with additional information to enable you to process this request, it will be easier from a logistical standpoint if you continue to work with Mr. Pedigo directly as to any specific information needed. However, let me know if you have any additional questions or require any additional information from or about OVI. Your cooperation in promptly processing our request for approval of the Merger will be appreciated.

Sincerely,



Eric Strickland, President/CEO
Omni Visions, Inc.



CONTRACT AMENDMENT COVER SHEET

Agency Tracking # 35910-50042	Edison ID 38925	Contract # 38925	Amendment # 1		
Contractor Legal Entity Name Omni Community Health, Inc.			Edison Vendor ID 85318		
Amendment Purpose & Effect(s) Name Change					
Amendment Changes Contract End Date: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		End Date: June 30, 2018			
TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A):			\$ 0		
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2014	365,000.00		1,095,000.00		1,460,000.00
2015	365,000.00		1,095,000.00		1,460,000.00
2016	365,000.00		1,095,000.00		1,460,000.00
2017	365,000.00		1,095,000.00		1,460,000.00
2018	365,000.00		1,095,000.00		1,460,000.00
TOTAL:	1,825,000.00		5,475,000.00		7,300,000.00
American Recovery and Reinvestment Act (ARRA) Funding: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					
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.			<i>CPO USE</i>		
Speed Chart (optional)		Account Code (optional)			

**AMENDMENT 1
OF CONTRACT 38925
Omni Community Health, Inc.**

This Amendment is made and entered by and between the State of Tennessee, Department of Children's Services, hereinafter referred to as the "State" and Omni Community Health, Inc., hereinafter referred to as the "Contractor." For good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. The following is added as Contract Section E. 40.

E.40. Contractor Name. All references to "Foothills Care, Inc." shall be deleted and replaced with "Omni Community Health, Inc."

Required Approvals. The State is not bound by this Amendment 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).

Amendment Effective Date. The revisions set forth herein shall be effective September 01, 2014. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

Omni Community Health, Inc.:

SIGNATURE

DATE

PRINTED NAME AND TITLE OF SIGNATORY (above)

Department of Children's Services:

James M. Henry, Commissioner

DATE



Omni Visions

301 S. Perimeter Park Dr., Ste. 210 • Nashville, Tennessee 37211 • 615.726.3603

June 24, 2014

BY EMAIL AND MAIL

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Director of Contracts Management
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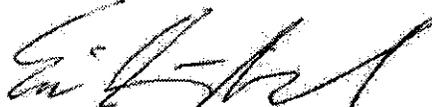
Suzanne G. White, MS
June 25, 2014
Page 2

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Regardless, we cannot proceed with the Merger until we receive approvals to avoid any default or breach of any FHC (or OCH) provider agreements as a result of the proposed transaction. Keep in mind that the sole shareholder of OCH will remain the same before and after the Merger and that the new entity that will be responsible for performance under the FHC agreements will be owned by OVI as is FHC at the present time.

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Sincerely,



Eric Strickland, President/CEO
Omni Visions, Inc.



CONTRACT

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

Begin Date October 1, 2013	End Date June 30, 2018	Agency Tracking # 35910-50042	Edison Record ID 38925
Contractor Legal Entity Name Foothills Care, Inc.			Edison Vendor ID 85318

Service Caption (one line only)
Case Management Services – East Tennessee Grand Region

Subrecipient or Vendor
 Subrecipient Vendor

CFDA #

Funding ---					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2014	365,000.00	0.00	1,095,000.00	0.00	1,460,000.00
2015	365,000.00	0.00	1,095,000.00	0.00	1,460,000.00
2016	365,000.00	0.00	1,095,000.00	0.00	1,460,000.00
2017	365,000.00	0.00	1,095,000.00	0.00	1,460,000.00
2018	365,000.00	0.00	1,095,000.00	0.00	1,460,000.00
TOTAL:	1,825,000.00	0.00	5,475,000.00	0.00	7,300,000.00

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)

<input checked="" type="checkbox"/> RFP	The procurement process was completed in accordance with the approved RFP document and associated regulations.
<input type="checkbox"/> Competitive Negotiation	The predefined, competitive, impartial, negotiation process was completed in accordance with the associated, approved procedures and evaluation criteria.
<input type="checkbox"/> Alternative Competitive Method	The predefined, competitive, impartial, procurement process was completed in accordance with the associated, approved procedures and evaluation criteria.
<input type="checkbox"/> Non-Competitive Negotiation	The non-competitive contractor selection was completed as approved, and the procurement process included a negotiation of best possible terms & price.
<input type="checkbox"/> Other	The contractor selection was directed by law, court order, settlement agreement, or resulted from the state making the same agreement with <u>all</u> interested parties or <u>all</u> 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.

[Signature]

OCR USE - FA

Speed Chart (optional)	Account Code (optional)
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**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF CHILDREN'S SERVICES
AND
FOOTHILLS CARE, INC.**

This Contract, by and between the State of Tennessee, Department of Children's Services (DCS), hereinafter referred to as the "State" and Foothills Care, Inc., hereinafter referred to as the "Contractor," is for the provision of Case Management services in the regions of East, Knox, Northeast, Smoky Mountain and Tennessee Valley of the East Tennessee Grand Region, as further defined in the "SCOPE OF SERVICES."

The Contractor is a For-Profit Corporation.
Contractor Place of Incorporation or Organization: Tennessee
Contractor Edison Registration ID # 85318

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. This contract is for the provision of Case Management (CM) services for children in the custody of the Department of Children's Services (DCS).

A.3. Project Case Manager Coordinator:

The Project Case Manager Coordinator (PCMC) will serve as the Contractor's project manager for the delivery of CM service. The PCMC will facilitate, collaborate, manage and oversee the team of Case Managers that will deliver CM Services. The PCMC may also carry a reduced caseload of CM cases.

Education & Experience: Graduation from an accredited college or university with a master's degree and at least two years of full-time professional work providing child welfare services including, but not limited to, one or a combination of the following: social, psychological, or correctional counseling or CM. The duties of the PCMC include, but are not limited to:

- a. Acts as the primary interface between the Contractor and the DCS region for whom services are to be delivered;
- b. Accepts, reviews, approves/disapproves, and assigns CM referrals;
- c. Oversees the work of the Contractor's Case Managers;
- d. Assists in the resolution of issues and barriers that may arise between the Contractor's Case Managers and DCS;
- e. Tracks and monitors all referrals and reconcile referral data with the regional contact;
- f. In collaboration with the DCS region coordinate all training needs;
- g. Facilitate access to the Tennessee Family and Child Tracking System (TFACTS) for Case Managers as well as securing badges for access to DCS offices.

A.4. Staff Qualifications:

Case Manager II

Education and Experience: Graduation from an accredited college or university with a bachelor's degree and experience equivalent to one year of full-time professional work providing child welfare services including, but not limited to, one or a combination of the following: social,



psychological, or correctional counseling or case management; volunteer services coordination for a children's service program; and/or juvenile classification coordination.

Case Manager III

Education and Experience: Graduation from an accredited college or university with a bachelor's degree and two years of professional experience providing child welfare services including, but not limited to, one or a combination of the following: social, psychological, or correctional counseling or case management; volunteer services coordination for a children's service program; and/or juvenile classification coordination.

Substitution of Graduate Education for Experience: A graduate degree in social work or a related behavioral science field may be substituted for the required experience on a year-for-year basis, to a maximum of one year (e.g., 36 graduate quarter hours may be substituted for one year of required experience).

- A.5. The Contractor shall assume all CM services for children/youth/family referred to the provider statewide. Social work CM is a method of providing services whereby a social worker Case Manager assesses the needs of the children/youth/family and as appropriate arranges, coordinates, monitors, evaluates and advocates for a package of multiple services to meet the specific child/youth/family's complex needs that ensures safety, well-being and timely permanency. The Case Manager is also responsible for ensuring reasonable efforts - documented evidence of consistent and repeated attempts - to engage parents and caretakers to achieve permanency through reunification or adoption if necessary.
- A.6. CM services shall be delivered by the Contractor's Case Managers. The Case Manager shall develop and maintain a therapeutic relationship with each child/youth and their family through permanency.
- A.7. CM services shall include, but are not limited to: Adopting all the responsibilities of the Department of Children's Service's (DCS) Family Service Worker (FSW) and adherence to the DCS Policy Manual, incorporated herein by reference <http://www.tn.gov/youth/dcsguide/policies.htm>.
- A.8. The responsibilities of the Contractor's Case Manager shall include, but are not limited to:
- a. Conducting face-to-face (F2F) comprehensive assessments with each youth/child and their family to determine their strengths and needs and of the social, financial, and institutional resources available to the client through the administration of the Functional Assessment;
 - b. Case Managers shall research and locate parents, families or kin through database and other search mechanisms in an effort to pursue reunification of children/youth with relatives/kin;
 - c. Coordination of the completion of the Child & Adolescent Needs Strengths (CANS) in accordance with the CANS timeline;
 - d. Coordination and facilitation of Child & Family Team Meetings (CFTM) in accordance with DCS policies incorporated herein by reference <http://www.tn.gov/youth/dcsguide/policies.htm>;
 - e. Development and advocacy for the permanency plans that are constructed in accordance with DCS Policy. Periodically re-assessing status of the plan, the effectiveness of interventions, and the attainment of outcomes with revision of the permanency plan as indicated ;
 - f. Conduct F2F visits in accordance with DCS Policy including the required visits for parents/caretakers;
 - g. Document in TFACTS case summaries and progress notes within DCS Policy guidelines;
 - h. Develop and maintain a therapeutic relationship with each assigned child/youth and their family, which may include linking the child/youth and their family with systems that provide needed services, resources and opportunities;



- i. The Case Manager shall use his/her professional skills and competency to serve children/youth/family whose interest is of prime concern;
- j. The Case Manager shall ensure the child/youth/family's right to privacy and ensure appropriate confidentiality when information about the child/youth/family is released to others;
- k. The Case Manager shall actively engage the child/youth's school to assure all educational needs are being met in a timely fashion;
- l. The Case Manager shall engage other professionals in the monitoring and provision of services for the child/youth and the family;
- m. Provide transportation to appointments and visitation for children and parents/caretakers that will support the achievement of permanency.
- n. Appear in court to provide updates and meet state and federal statute for Permanency Planning and reviews. This would also include providing updates and consultation with DCS legal staff prior to hearings;
- o. Participate in required DCS review processes such as permanency review, backlog reviews, full guardianship reviews etc. and,
- p. The Contractor and his/her staff shall adhere to the best practice standards outlined by the Brian A. settlement agreement (incorporated herein by reference), as well as, their accreditation standard requirements.

B. CONTRACT PERIOD:

This Contract shall be effective for the period beginning October 1, 2013, and ending on June 30, 2018. 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.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Seven Million Three Hundred Thousand Dollars (\$7,300,000.00). 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)
Case Management Services	\$20.00 per child per day

* NOTICE: The amount(s) per compensable increment detailed above shall be contingent upon the State's receipt of an invoice (as required in section C.5., below) for said service(s) within thirty (30) days after the end of the calendar month in which the service(s) were rendered. At the sole discretion of the State, the amount per compensable increment of any service for which the State receives an invoice later than prescribed herein shall be subject to a reduction in amount of up to 100%. In the case of an untimely invoice, before any payment will be considered by the State, the Contractor must submit a written request regarding the untimely invoice, which shall detail the reason the invoice is untimely as well as the Contractor's plan for submitting all future invoices no later than prescribed herein, and it must be signed by an individual empowered to bind the Contractor to this Contract.

- c. The Contractor shall not be compensated for travel time to the primary location of service provision.
 - d. A "day" shall be defined as a minimum of eight (8) hours of service. If the Contractor provides fewer than eight hours of service in a standard twenty-four hour day, the Contractor shall bill *pro rata* for only those portions of the day in which service was actually delivered. The Contractor shall not bill more than the daily rate even if the Contractor works more than eight hours in a day.
- 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:

TN Department of Children's Services
7th Floor, Cordell Hull Bldg.
436 6th Avenue North
Nashville, TN 37243

- 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: DCS/Foster Care and Adoption
 - (5) Customer Account Number (assigned by the Contractor to the above-referenced Customer)
 - (6) Contractor Name
 - (7) Contractor 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 A, 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. Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401, *et seq.*
- D.11. 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.12. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.13. 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.14. **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.15. **State Liability.** The State shall have no liability except as specifically provided in this Contract.
- D.16. **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.17. **State and Federal Compliance.** The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.18. **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.19. **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.
- D.20. **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.21. **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:



Bonnie Hommrich, Deputy Commissioner of Child Programs
 Department of Children's Services
 7th Floor, Cordell Hull Bldg.
 436 6th Avenue North
 Nashville, TN 37243
Bonnie.Hommrich@tn.gov
 Telephone # 615-532-3591
 FAX # 615-532-8079

The Contractor:

James Pedigo, President
 Foothills Care, Inc.
 404 North Kentucky Street
 Kingston, TN 37763
jpedigo@foothillscare.com
 Telephone # 865-376-3464
 FAX # 865-376-3433

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. Tennessee Department of Revenue Registration. The Contractor shall be registered with the Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this Contract.
- E.6. 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) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or one million dollars (\$1,000,000) per occurrence for employers' liability whichever is greater.
 - (2) 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 two million dollars (\$2,000,000) aggregate.

- (3) Automobile Coverage (including owned, leased, hired, and non-owned vehicles) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence.
- (4) Professional Malpractice Liability with a limit of not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) 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.7 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.8. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.

- E.9. 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 d., 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.
 - f. The Brian A. Modified Settlement Agreement;
 - g. The documents entitled "DCS Provider Policy Manual" and "DCS Policy Manual" including any changes or additions that may subsequently be made, herein attached by reference.
- E.10. 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.11. Public Accountability. If the Contractor is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4 or if this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Contractor shall display in a prominent place, located near the passageway through which the public enters in order to receive services pursuant to this Contract, a sign at least twelve inches (12") in height and eighteen inches (18") in width stating:
- NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454
- E.12. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.
- E.13. 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.14. **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 offence 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.15. **Breach.** A party shall be deemed to have breached the Contract if any of the following occurs:

- failure to perform in accordance with any term or provision of the Contract;
- partial performance of any term or provision of the Contract;
- any act prohibited or restricted by the Contract, or
- violation of any warranty.

For purposes of this Contract, these items shall hereinafter be referred to as a "Breach."

- a. Contractor Breach— The State shall notify Contractor in writing of a Breach.
 - (1) In event of a Breach by Contractor, the State shall have available the remedy of Actual Damages and any other remedy available at law or equity.
 - (2) Liquidated Damages— In the event of a Breach, the State may assess Liquidated Damages. The State shall notify the Contractor of amounts to be assessed as Liquidated Damages. The parties agree that due to the complicated nature of the Contractor's obligations under this Contract it would be difficult to specifically designate a monetary amount for a Breach by Contractor as said amounts are likely to be uncertain and not easily proven. Contractor hereby represents and covenants it has carefully reviewed the Liquidated Damages contained in above referenced, Attachment B and agree that said amounts represent a reasonable relationship between the amount and what might reasonably be expected in the event of Breach, and are a reasonable estimate of the damages that would occur from a Breach. It is hereby agreed between the parties that the Liquidated



Damages represent solely the damages and injuries sustained by the State in losing the benefit of the bargain with Contractor and do not include any injury or damage sustained by a third party. The Contractor agrees that the liquidated damage amount is in addition to any amounts Contractor may owe the State pursuant to the indemnity provision or other section of this Contract.

The State may continue to withhold the Liquidated Damages or a portion thereof until the Contractor cures the Breach, the State exercises its option to declare a Partial Default, or the State terminates the Contract. The State is not obligated to assess Liquidated Damages before availing itself of any other remedy. The State may choose to discontinue Liquidated Damages and avail itself of any other remedy available under this Contract or at law or equity; provided, however, Contractor shall receive a credit for said Liquidated Damages previously withheld except in the event of a Partial Default.

- (3) **Partial Default**— In the event of a Breach, the State may declare a Partial Default. In which case, the State shall provide the Contractor written notice of: (1) the date which Contractor shall terminate providing the service associated with the Breach; and (2) the date the State will begin to provide the service associated with the Breach. Notwithstanding the foregoing, the State may revise the time periods contained in the notice written to the Contractor.

In the event the State declares a Partial Default, the State may withhold, together with any other damages associated with the Breach, from the amounts due the Contractor the greater of: (1) amounts which would be paid the Contractor to provide the defaulted service; or (2) the cost to the State of providing the defaulted service, whether said service is provided by the State or a third party. To determine the amount the Contractor is being paid for any particular service, the Department shall be entitled to receive within five (5) days any requested material from Contractor. The State shall make the final and binding determination of said amount.

The State may assess Liquidated Damages against the Contractor for any failure to perform which ultimately results in a Partial Default with said Liquidated Damages to cease when said Partial Default is effective. Upon Partial Default, 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. Contractor agrees to cooperate fully with the State in the event a Partial Default is taken.

- (4) **Contract Termination**— In the event of a Breach, the State may terminate the Contract immediately or in stages. The Contractor shall be notified of the termination in writing by the State. Said notice shall hereinafter be referred to as Termination Notice. The Termination Notice may specify either that the termination is to be effective immediately, on a date certain in the future, or that the Contractor shall cease operations under this Contract in stages. In the event of a termination, the State may withhold any amounts which may be due Contractor without waiver of any other remedy or damages available to the State at law or at equity. The Contractor shall be liable to the State for any and all damages incurred by the State and any and all expenses incurred by the State which exceed the amount the State would have paid Contractor under this Contract. Contractor agrees to cooperate with the State in the event of a Contract Termination or Partial Takeover.

- b. **State Breach**— In the event of a Breach of Contract by the State, the Contractor shall notify the State in writing within 30 days of any Breach of Contract by the State. Said notice shall contain a description of the Breach. Failure by the Contractor to provide said written notice shall operate as an absolute waiver by the Contractor of the State's Breach. In no event shall any Breach on the part of the State excuse the Contractor from full performance under this Contract. In the event of Breach by the State, the Contractor may



avail itself of any remedy at law in the forum with appropriate jurisdiction; provided, however, failure by the Contractor to give the State written notice and opportunity to cure as described herein operates as a waiver of the State's Breach. Failure by the Contractor to file a claim before the appropriate forum in Tennessee with jurisdiction to hear such claim within one (1) year of the written notice of Breach shall operate as a waiver of said claim in its entirety. It is agreed by the parties this provision establishes a contractual period of limitations for any claim brought by the Contractor.

- E.16. **Partial Takeover.** The State may, at its convenience and without cause, exercise a partial takeover of any service which the Contractor is obligated to perform under this Contract, including but not limited to any service which is the subject of a subcontract between Contractor and a third party, although the Contractor is not in breach (hereinafter referred to as "Partial Takeover"). Said Partial Takeover shall not be deemed a Breach of Contract by the State. Contractor shall be given at least 30 days prior written notice of said Partial Takeover with said notice to specify the area(s) of service the State will assume and the date of said assumption. Any Partial Takeover by the State shall not alter in any way Contractor's other obligations under this Contract. The State may withhold from amounts due the Contractor the amount the Contractor would have been paid to deliver the service as determined by the State. The amounts shall be withheld effective as of the date the State assumes the service. Upon Partial Takeover, 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.17. **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.18. **Occupancy.** The Contractor acknowledges that this is a fee-for-service Contract and that neither the State nor the Contractor can guarantee full occupancy.
- E.19. **Federal Funding Accountability and Transparency Act (FFATA).** This Contract requires the Contractor to provide supplies and/or services that are funded in whole or in part by federal funds that are subject to FFATA. The Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of FFATA are met and that the Contractor provides information to the State as required.

The Contractor shall comply with the following:

- a. Reporting of Total Compensation of the Contractor's Executives.
- (1) The Contractor shall report the names and total compensation of each of its five most highly compensated executives for the Contractor's preceding completed fiscal year, if in the Contractor's preceding fiscal year it received:
- i. 80 percent or more of the Contractor's annual gross revenues from Federal procurement contracts and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - ii. \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d))



or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

Executive means officers, managing partners, or any other employees in management positions.

- (2) Total compensation means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
- i. Salary and bonus.
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - v. Above-market earnings on deferred compensation which is not tax qualified.
 - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.
- b. The Contractor must report executive total compensation described above to the State by the end of the month during which this Contract is awarded.
 - c. If this Contract is amended to extend its term, the Contractor must submit an executive total compensation report to the State by the end of the month in which the amendment to this Contract becomes effective.
 - d. The Contractor will obtain a Data Universal Numbering System (DUNS) number and maintain its DUNS number for the term of this Contract. More information about obtaining a DUNS Number can be found at: <http://fedgov.dnb.com/webform/>

The Contractor's failure to comply with the above requirements is a material breach of this Contract for which the State may terminate this Contract for cause. The State will not be obligated to pay any outstanding invoice received from the Contractor unless and until the Contractor is in full compliance with the above requirements.

- E.20. **First Amendment.** The Contractor does not waive its rights under the First Amendment to the United States Constitution.
- E.21. **Drug Free Workplace.** The Contractor shall provide a drug-free workplace pursuant to the Drug-Free Workplace Act of 1988, 45 C.F.R. Part 76, Subpart F.
- E.22. **Financial Information Required.** The State must comply with the Office of Management and Budget Circular (OMB) A-87 to claim reimbursement for a portion of the cost of payments made under this Contract from the federal government under Title IV-E and/or Title XIX. Information will be periodically required to be submitted by the Contractor to enable the State to comply with OMB A-87 and facilitate the submission of claims to the federal government in accordance with DCS' federally approved cost allocation plan. The Contractor will be notified at the time documentation is requested of the date by which the submission is required. The Contractor shall complete a



cost report using the best information available in accordance with the cost reporting instructions. The documentation to be submitted by the Contractor shall include, but is not limited to:

- a. Annual Contracted Providers Cost Report completing the forms and following the directions provided by the State;
- b. Program description and two weekly schedules;
- c. Most recently audited financial statement with audit opinion for the audited period;
- d. Reconciliation of the Cost Report to the independent audit; and
- e. Letter under separate cover from independent auditor addressing whether the cost allocation method used by the Contractor in the Cost Report appears to be reasonable.

Failure to submit the above-stated documentation on the specified date shall be deemed a breach of the Contract and the State shall have the right to terminate the Contract for cause under Section D.4. of the Contract, or to consider such failure a Partial Default.

- E.23. Supplemental Conflict of Interest. The Contractor shall not have as any owner, member of the board of directors, or member of the board of trustees, a person who also holds any other position that may influence the placements provided to children in the plaintiff class of Brian A. v. Haslam. Such positions include, but are not limited to juvenile court judges, referees, or other court officers involved in the individual cases of children in foster care.
- E.24. Title VI of the Civil Rights Act of 1964. The Contractor shall develop and deliver to the State on or before July 31st of each fiscal year an implementation plan that describes the Contractor's long-range goals and objectives that will guide the Contractor's efforts to ensure compliance with Title VI of the Civil Rights Act of 1964 pursuant to the guidelines established by the Tennessee Title VI Compliance Commission. Title VI plans must be submitted no later than July 31st of each year to:
 Director of the Division of Diversity Initiatives
 Tennessee Department of Children's Services
 Division for Diversity Initiatives
 7th Floor, Cordell Hull Bldg.
 436 6th Avenue North
 Nashville, TN 37243
- E.25. Supplemental Subcontracting. In accordance with the Brian A. Settlement Agreement (specifically, the Racial Disparities Study conducted by Dr. Ruth McRoy) the State is actively working toward decreasing the racial disparity between service providers and target service populations. To help correct this disparity, the State strongly recommends, in situations where subcontracts are necessary, that the Contractor subcontract for services with minority owned or operated subcontractors that can assist the Contractor in meeting the needs of the children and families that are served. The State requires the Contractor to support the State's commitment to achieving diversity and developing programs that reflect the diversity of the population served.
- E.26. Monitoring Sub-Contractors. The Contractor shall develop written procedures for monitoring all of its State-approved subcontractors. The procedures must clearly outline the process for assuring that all subcontractors are in compliance with the DCS and Provider Policy Manuals and the subcontracting guidelines detailed at the following web site:
http://www.state.tn.us/youth/providers/prov_policies.htm

The Contractor shall have an established quality assurance/quality improvement plan for all subcontractors.

The Contractor shall also maintain an internal quality improvement process that assesses the overall quality and performance of its subcontractors.



- E.27. **Working Capital.** The Contractor must have a minimum of sixty (60) days working capital in the event payment to the Contractor is interrupted by an emergency or for reasons beyond the Contractor's control to ensure continuity of operations. Working capital must be documented by a review of the Contractor's balance sheet and income statement. Working capital is defined as current assets minus current liabilities. Current assets may include marketable securities as long as they have not been legally pledged against a long term equity interest. Credit lines are not working capital.

Working capital requirements shall be met at the time of initial contracting and maintained during subsequent contracting periods. In the event working capital declines below the sixty (60) day requirement, the Contractor shall be placed on probation and the Contract will be subject to cancellation at the discretion of the State.

- E.28. **Financial Statements.** The Contractor shall submit to the State independently audited financial statements containing an auditor's report reflecting the auditor's opinion that the statements are presented fairly and found to be in conformity with generally accepted accounting principles. The independent audit must have been performed by a certified public accounting firm in good standing with the American Institute of Certified Public Accountants (AICPA). The financial statements must be complete, and include all statements and notes to the statements as contained within the audit report. The financial statements and audit report shall be submitted within nine (9) months of the Contractor's reporting period to:

Department of Children's Services
Cordell Hull Building, 7th Floor Fiscal Division
436 6th Avenue North
Nashville, TN 37243-3000

The financial statements must represent the Contracting entity. Where the financial statements are for a parent company of the entity providing the service, the Contract must be in the name of the parent company and signed by an authorized representative of the parent company. The entity providing the service may be identified within the Contract as the service provider; however, financial responsibility will belong to the parent company.

- E.29. **Performance Standards.** The Contractor hereby acknowledges and agrees that its performance under this Contract shall meet the standards set forth in Section A of this Contract, the DCS Provider Policy Manual (PPM), DCS Policy, the Brian A. Settlement Agreement, and the conditions set forth in this Contract. If the Contractor fails to meet these standards, the State, at its exclusive option, may allow up to six (6) months for the provider to achieve compliance with the standards. If performance deficiencies are not resolved to the satisfaction of the State within the prescribed time, and if no extenuating circumstances can be documented by the Contractor to the State's satisfaction, the State may cancel the Contract at the State's discretion.
- E.30. **State Ownership of Case Files.** The State shall have ownership, right, title, and interest in all case files created, designed, developed, derived, documented, installed, or maintained on behalf of the State pursuant to this Contract. The State shall have unlimited rights to all said case files. The Contractor shall furnish such information and data upon the request of the State, in accordance with this Contract and applicable State law.
- E.31. **Mergers, Dissolutions, Partnerships & Joint Ventures.** As would be the case with any agency dissolution, merger, or acquisition, the agency and the State have financial responsibilities requiring resolution. The Contractor is required to provide ninety (90) days notification prior to any dissolution, merger, or acquisition.

In the event an agency is dissolved, the State maintains rights to assets (representing accounts payable/reinvestment due to the State) as may be distributed voluntarily or by court action. Additionally, the State acknowledges its responsibility for its liabilities (representing accounts payable/reinvestment due to the Contractor).

In the event an agency is merged or acquired by another agency/entity then the due to/from financial responsibilities shall be commensurate with the Articles to the Merger or Acquisition.



- E.32. **HIPAA and HITECH Compliance.** The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Health Information Technology for Economic and Clinical Health Act (HITECH) under the American Recovery and Reinvestment Act of 2009 (ARRA) and their accompanying regulations, and as amended.

Contractor warrants to the State that it is familiar with the requirements of HIPAA and HITECH and their accompanying regulations, and shall comply with all applicable HIPAA and HITECH requirements in the course of this Contract including but not limited to the following:

1. Compliance with the Privacy Rule, Security Rule, Notification Rule;
2. The creation of and adherence to sufficient Privacy and Security Safeguards and Policies;
3. Timely Reporting of Violations in the Access, Use and Disclosure of PHI; and
4. Timely Reporting of Privacy and/or Security Incidents.

The Contractor warrants that it shall cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and HITECH and their accompanying regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA and HITECH.

The State and the Contractor shall sign documents, including but not limited to business associate agreements, as required by HIPAA and HITECH and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA and HITECH.

Knowing and willful disclosure of PHI in violation of procedures for determining eligibility for exchange participation, premium tax credits and reduced cost-sharing, and individual responsibility exemptions, per person or entity, per use or disclosure may result in Liquidated Damages as set forth in Attachment B.

- E.33. **HIPAA and HITECH Designee.** As a party to this Contract, the Contractor hereby acknowledges its designation as a covered entity and/or business associate under the HIPAA regulations and agrees to comply with all applicable HIPAA and HITECH (hereinafter "HIPAA/HITECH") regulations. In accordance with HIPAA/HITECH regulations, the Contractor shall, at a minimum:
- a. Comply with requirements of the Health Insurance Portability and Accountability Act of 1996 and the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH), including, but not limited to, the transactions and code sets, privacy, security, and identifier regulations, by their designated compliance dates. Compliance includes meeting all required transaction formats and code sets with the specified data sharing agreements required under the regulations;
 - b. Transmit/receive from/to its providers, subcontractors, clearinghouses and TennCare all transactions and code sets required by the HIPAA/HITECH regulations in the appropriate standard formats, utilizing appropriate and adequate safeguards, as specified under the law and as directed by TennCare so long as TennCare direction does not conflict with the law;
 - c. Agree that if it is not in compliance with all applicable standards defined within the transactions and code sets, privacy, security and all subsequent HIPAA/HITECH standards, that it will be in breach of this Contract and will then take all reasonable steps to cure the breach or end the violation as applicable. Since inability to meet the transactions and code sets requirements, as well as the privacy and security requirements can bring basic business practices between TennCare and the Contractor



and between the Contractor and its providers and/or subcontractors to a halt, if for any reason the Contractor cannot meet the requirements of this Section, TennCare may terminate this Contract in accordance with the Business Associate Agreement ancillary to this Contract;

- d. Ensure that Protected Health Information (PHI) exchanged between the Contractor and TennCare is used only for the purposes of treatment, payment, or health care operations and health oversight and its related functions. All PHI not transmitted for these purposes or for purposes allowed under the federal HIPAA/HITECH regulations shall be de-identified to secure and protect the individual enrollee's PHI;
- e. Report to TennCare's Privacy Office immediately upon becoming aware of any use or disclosure of PHI in violation of this Contract by the Contractor, its officers, directors, employees, subcontractors or agents or by a third party to which the Contractor disclosed PHI;
- f. Specify in its agreements with any agent or subcontractor that will have access to PHI that such agent or subcontractor agrees to be bound by the same restrictions, terms and conditions that apply to the Contractor pursuant to this Section;
- g. Make available to TennCare enrollees the right to amend their PHI in accordance with the federal HIPAA regulations. The Contractor shall also send information to enrollees educating them of their rights and necessary steps in this regard;
- h. Make an enrollee's PHI accessible to TennCare immediately upon request by TennCare;
- i. Make its internal policies and procedures, records and other documentation related to the use and disclosure of PHI available to the U.S. Secretary of Health and Human Services for the purposes of determining compliance with the HIPAA/HITECH regulations upon request;
- j. Create and adopt policies and procedures to periodically audit adherence to all HIPAA/HITECH regulations, and for which Contractor acknowledges and promises to perform, including but not limited to, the following obligations and actions:
- k. Agree to ensure that any agent, including a subcontractor, to whom it provides PHI that was created, received, maintained, or transmitted on behalf of TennCare agrees to use reasonable and appropriate safeguards to protect the PHI.
- l. If feasible, return or destroy all PHI, in whatever form or medium (including any electronic medium) and all copies of any data or compilations derived from and allowing identification of any individual who is a subject of that PHI upon termination, cancellation, expiration or other conclusion of the Agreement, and in accordance with this Section of this Contract. The Contractor shall complete such return or destruction as promptly as possible, but not later than thirty (30) days after the effective date of the termination, cancellation, expiration or other conclusion of the Agreement. The Contractor shall identify any PHI that cannot feasibly be returned or destroyed. Within such thirty (30) days after the effective date of the termination, cancellation, expiration or other conclusion of the Agreement, the Contractor shall: (1) certify on oath in writing that such return or destruction has been completed; (2) identify any PHI which cannot feasibly be returned or destroyed; and (3) certify that it will only use or disclose such PHI for those purposes that make its return or destruction infeasible;
- m. Implement all appropriate administrative, physical and technical safeguards to prevent the use or disclosure of PHI other than pursuant to the terms and conditions of this Contract and, including, but not limited to, privacy, security and confidentiality requirements in 45 CFR Parts 160 and 164;



- n. Set up appropriate mechanisms to limit use or disclosure of PHI to the minimum necessary to accomplish the intended purpose of the use or disclosure;
- o. Create and implement policies and procedures to address present and future HIPAA/HITECH regulatory requirements as needed, including, but not limited to: use and disclosure of data; de-identification of data; minimum necessary access; accounting of disclosures; enrollee's right to amend, access, request restrictions; notice of privacy practices and right to file a complaint;
- p. Provide an appropriate level of training to its staff and employees regarding HIPAA/HITECH-related policies, procedures, enrollee rights and penalties prior to the HIPAA/HITECH implementation deadlines and at appropriate intervals thereafter;
- q. Track training of Contractor staff and employees and maintain signed acknowledgements by staff and employees of the Contractor's HIPAA/HITECH policies;
- r. Be allowed to use and receive information from TennCare where necessary for the management and administration of this Contract and to carry out business operations where permitted under the regulations;
- s. Be permitted to use and disclose PHI for the Contractor's own legal responsibilities;
- t. Adopt the appropriate procedures and access safeguards to restrict and regulate access to and use by Contractor employees and other persons performing work for the Contractor to have only minimum necessary access to PHI and personally identifiable data within their organization;
- u. Continue to protect and secure PHI AND personally identifiable information relating to enrollees who are deceased;
- v. Be responsible for informing its enrollees of their privacy rights in the manner specified under the regulations;
- w. Make available PHI in accordance with 45 CFR 164.524;
- x. Make available PHI for amendment and incorporate any amendments to PHI in accordance with 45 CFR 164.526; and
- y. Obtain a third (3rd) party certification of their HIPAA transaction compliance ninety (90) calendar days before the start date of operations.

The Contractor shall track all security incidents as defined by HIPAA/HITECH, and, as required by the HIPAA/HITECH Reports. The Contractor shall periodically report in summary fashion such security incidents.

- E.34. Information Holders. TennCare and the Contractor are "information holders" as defined in TCA 47-18-2107. In the event of a breach of the security of Contractor's information system, as defined by TCA 47-18-2107, the Contractor shall indemnify and hold TennCare harmless for expenses and/or damages related to the breach. Such obligations shall include, but not be limited to, mailing notifications to affected enrollees. Substitute notice to written notice, as defined by TCA 47-18-2107(e)(2) and (3), shall only be permitted with TennCare's express written approval. The Contractor shall notify TennCare's Privacy Office immediately upon becoming aware of any security incident that would constitute a "breach of the security of the system" as defined in TCA 47-18-2107.
- E.35. Notification of Breach and Notification of Provisional Breach - The Contractor shall notify TennCare's Privacy Office immediately upon becoming aware of any incident, either confirmed or provisional, that represents or may represent unauthorized access, use or disclosure of encrypted



or unencrypted computerized data that materially compromises the security, confidentiality, or integrity of enrollee PHI maintained or held by the Contractor, including any unauthorized acquisition of enrollee PHI by an employee or otherwise authorized user of the Contractor's system. This includes, but is not limited to, loss or suspected loss of remote computing or telework devices such as laptops, PDAs, Blackberrys or other Smartphones, USB drives, thumb drives, flash drives, CDs, and/or disks.

Medicaid and CHIP – Verification of Income and Eligibility - The Contractor must provide safeguards that restrict the use or disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the plan:

- i. Purposes directly related to the administration of Medicaid and CHIP include:
 - a. establishing eligibility;
 - b. determining the amount of medical assistance;
 - c. providing services for beneficiaries; and,
 - d. conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to Medicaid or CHIP administration.
- ii. The Contractor must have adequate safeguards to assure that--
 - a. Information is made available only to the extent necessary to assist in the valid administrative purposes of those receiving the information, and information received under 26 USC section 6103(l) is exchanged only with parties authorized to receive that information under that section of the Code; and,
 - b. the information is adequately stored and processed so that it is protected against unauthorized disclosure for other purposes.
- iii. The Contractor must have criteria that govern the types of information about applicants and beneficiaries that are safeguarded. This information must include at least--
 - (a) Names and addresses;
 - (b) Medical services provided;
 - (c) Social and economic conditions or circumstances;
 - (d) Contractor evaluation of personal information;
 - (e) Medical data, including diagnosis and past history of disease or disability; and
 - (f) Any information received for verifying income eligibility and amount of medical assistance payments, including income information received from SSA or the Internal Revenue Service,
 - (g) Any information received for verifying income eligibility and amount of medical assistance payments
 - (h) Income information received from SSA or the Internal Revenue Service must be safeguarded according to Medicaid and CHIP requirements
 - (i) Any information received in connection with the identification of legally liable third party resources.



(j) Social Security Numbers.

- iv. The Contractor must have criteria approved by the State specifying the conditions for release and use of information about applicants and beneficiaries:
- (a) Access to information concerning applicants or beneficiaries must be restricted to persons or Contractor representatives who are subject to standards of confidentiality that are comparable to those of the State.
 - (b) The Contractor shall not publish names of applicants or beneficiaries.
 - (c) The Contractor shall obtain permission from a family or individual, whenever possible, before responding to a request for information from an outside source, unless the information is to be used to verify income, eligibility and the amount of medical assistance payment to an authorized individual or entity;
 - (d) If, because of an emergency situation, time does not permit obtaining consent before release, the Contractor shall notify the State, the family or individual immediately after supplying the information.
 - (e) The Contractor's policies must apply to all requests for information from outside sources, including governmental bodies, the courts, or law enforcement officials.
 - (f.) The Contractor shall notify the State of any requests for information on applicants or beneficiaries by other governmental bodies, the courts or law enforcement officials ten (10) days prior to releasing the requested information.
 - (g) If a court issues a subpoena for a case record or for any Contractor representative to testify concerning an applicant or beneficiary, the Contractor must notify the State at least ten (10) days prior to the required production date so the State may inform the court of the applicable statutory provisions, policies, and regulations restricting disclosure of information, effective until Jan. 1, 2014.
 - (h) The Contractor shall not request or release information to other parties to verify income, eligibility and the amount of assistance under Medicaid or CHIP, prior to express approval from the State.
- E.36. Social Security Administration (SSA) Required Provisions for Data Security. The Contractor shall comply with limitations on use, treatment, and safeguarding of data under the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, related Office of Management and Budget guidelines, the Federal Information Security Management Act of 2002 (44 U.S.C. § 3541, *et seq.*), and related National Institute of Standards and Technology guidelines. In addition, the Contractor shall have in place administrative, physical, and technical safeguards for data.
- a. The Contractor shall not duplicate in a separate file or disseminate, without prior written permission from TennCare, the data governed by the Contract for any purpose other than that set forth in this Contract for the administration of the TennCare program. Should the Contractor propose a redisclosure of said data, the Contractor must specify in writing to TennCare the data the Contractor proposes to redisclose, to whom, and the reasons that justify the redisclosure. TennCare will not give permission for such redisclosure unless the redisclosure is required by law or essential to the administration of the TennCare program.
 - b. The Contractor agrees to abide by all relevant federal laws, restrictions on access, use, and disclosure, and security requirements in this Contract.



- c. The Contractor shall provide a current list of the employees of such contractor with access to SSA data and provide such lists to TennCare.
- d. The Contractor shall restrict access to the data obtained from TennCare to only those authorized employees who need such data to perform their official duties in connection with purposes identified in this Contract. The Contractor shall not further duplicate, disseminate, or disclose such data without obtaining TennCare's prior written approval.
- e. The Contractor shall ensure that its employees:
 - (1) properly safeguard PHI/PII furnished by TennCare under this Contract from loss, theft or inadvertent disclosure;
 - (2) understand that they are responsible for safeguarding this information at all times, regardless of whether or not the Contractor employee is at his or her regular duty station;
 - (3) ensure that laptops and other electronic devices/ media containing PHI/PII are encrypted and/or password protected;
 - (4) send emails containing PHI/PII only if encrypted or if to and from addresses that are secure; and,
 - (5) limit disclosure of the information and details relating to a PHI/PII loss only to those with a need to know.

Contractor employees who access, use, or disclose TennCare or TennCare SSA-supplied data in a manner or purpose not authorized by this Contract may be subject to civil and criminal sanctions pursuant to applicable federal statutes.

- f. Loss or Suspected Loss of Data – If an employee of the Contractor becomes aware of suspected or actual loss of PHI/PII, he or she must immediately contact TennCare immediately upon becoming aware to report the actual or suspected loss. The Contractor will use the Loss Worksheet located at http://www.tn.gov/tenncare/forms/phi_piiworksheet.pdf to quickly gather and organize information about the incident. The Contractor must provide TennCare with timely updates as any additional information about the loss of PHI/PII becomes available.

If the Contractor experiences a loss or breach of said data, TennCare will determine whether or not notice to individuals whose data has been lost or breached shall be provided and the Contractor shall bear any costs associated with the notice or any mitigation.

- g. TennCare may immediately and unilaterally suspend the data flow under this Contract, or terminate this Contract, if TennCare, in its sole discretion, determines that the Contractor has: (1) made an unauthorized use or disclosure of TennCare SSA-supplied data; or (2) violated or failed to follow the terms and conditions of this Contract.
- h. In order to meet certain requirements set forth in the State's Computer Matching and Privacy Protection Act Agreement (CMPPA) with the SSA, the Parties acknowledge that this Section shall be included in all agreements executed by or on behalf of the State. The Parties further agree that FISMA and NIST do not apply in the context of data use and disclosure under this Agreement as the Parties shall neither use nor operate a federal information system on behalf of a federal executive agency. Further, NIST is applicable to federal information systems; therefore, although encouraged to do so, the State, its contractors, agents and providers are not required to abide by the NIST guidelines.



- i. This Section further carries out Section 1106(a) of the Act (42 U.S.C. 1306), the regulations promulgated pursuant to that section (20 C.F.R. Part 401), the Privacy of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, related Office of Management and Budget ("OMB") guidelines, the Federal Information Security Management Act of 2002 ("FISMA") (44 U.S.C. 3541 et seq.), and related National Institute of Standards and Technology ("NIST") guidelines, which provide the requirements that the SSA stipulates that the Contractor must follow with regard to use, treatment, and safeguarding data in the event data is exchanged with a federal information system.
- j. **Definitions**
 - (1) "SSA-supplied data" – information, such as an individual's social security number, supplied by the Social Security Administration to TennCare to determine entitlement or eligibility for federally-funded programs (CMPPA between SSA and F&A; IEA between SSA and TennCare).
 - (2) "Protected Health Information/Personally Identifiable Information" (PHI/PII) (45 C.F.R. 160.103; OMB Circular M-06-19) – Protected health information means individually identifiable health information that is: (i) Transmitted by electronic media; (ii) Maintained in electronic media; or (iii) Transmitted or maintained in any other form or medium.
 - (3) "Individually Identifiable Health Information" – information that is a subset of health information, including demographic information collected from an individual, and: (1) Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and (2) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
 - (4) "Personally Identifiable Information" – any information about an individual maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and information which can be used to distinguish or trace an individual's identity, such as their name, Social Security Number, date and place of birth, mother's maiden name, biometric records, including any other personal information which can be linked to an individual.

E.37. Requirements of Bureau of TennCare.

- a. The Contractor, including but not limited to, its employees, agents, subcontractors, or anyone acting for or on behalf of the Contractor shall comply with the requirements as stipulated in the Interagency Contract among the Department of Children's Services (DCS), the Department of Health, Bureau of Health Services Administration (HSA), and the Department of Finance and Administration, Bureau of TennCare (TennCare) as the procuring State agency and as required by Code of Federal Regulations, Title 42, Part 455.100, et seq.: The Contractor shall submit an annual *Ownership and Financial Disclosure Form as shown in Attachment C hereto* (<http://www.tn.gov/tenncare/forms/disclosureownership.pdf>) to DCS. DCS shall collect and store its Contractor's ownership and disclosure forms and furnish them to TennCare upon request.
- b. **Contractor Requirements:** Participation in the TennCare program shall be limited to Contractors who:
 - 1. Agree that the Contractor may not refuse to provide covered medically necessary or covered preventive services to a child under the age of twenty-one (21) or a



TennCare Medicaid patient under this Contract for non-medical reasons. However, the Contractor shall not be required to accept or continue treatment of a patient with whom the Contractor feels he/she cannot establish and/or maintain a professional relationship.

2. Agree that emergency services be rendered without the requirement of prior authorization of any kind.
3. **Records Retention-** A TennCare record is any record, in whatever form, including, but not limited to medical records, billing records, financial records including 1099 forms, and/or any records related to services rendered, quality, appropriateness and timeliness of services and/or any records relevant to an administrative, civil and/or criminal investigation and/or prosecution. The CONTRACTOR as well as its subcontractor and providers shall maintain TennCare records necessary to demonstrate that covered services were provided in compliance with state and federal requirements. An adequate record system shall be maintained and that all records be maintained for five (5) years from the close of the provider agreement (behavioral health records shall be maintained at the provider level for ten (10) years after the termination of the provider agreement pursuant to TCA 33-3-101) or retained until all evaluations, audits, reviews or investigations or prosecutions are completed for recording enrollee services, servicing providers, charges, dates and all other commonly accepted information elements for services rendered to enrollees pursuant to the provider agreement (including but not limited to such records as are necessary for the evaluation of the quality, appropriateness, and timeliness of services performed under the provider agreement and administrative, civil or criminal investigations and prosecutions)
4. **TennCare Records-Access to :** TENNCARE, DHHS OIG, Office of the Comptroller of the Treasury, OIG, TBI MFCU, DOJ and their authorized agents, as well as any authorized state or federal agency or entity shall have the right to access through inspection, evaluation, review or request, whether announced or unannounced, or other means, any TennCare records pertinent to this Contract including, but not limited to medical records, billing records, financial records including 1099 forms, and/or any records related to services rendered, quality, appropriateness and timeliness of services and/or any records relevant to an administrative, civil and/or criminal investigation and/or prosecution. Such evaluation, inspection, review or request, and when performed or requested, shall be performed with the immediate cooperation of the provider, during normal business hours, except under special circumstances when after hour admission shall be allowed. Special circumstances shall be determined by the requesting agency. Upon request, the provider shall assist in such reviews including the provision of complete copies of medical records at no cost to the requesting agency. Contractor acknowledges that HIPAA does not bar disclosure of protected health information (PHI) to health oversight agencies, including, but not limited to TennCare, OIG, TBI MFCU, DHHS OIG and DOJ and their authorized agents. Any authorized state or federal agency or entity, including, but not limited to TENNCARE, OIG, TBI MFCU, DHHS OIG, DOJ, Office of the Comptroller of the Treasury, may use these records and information for medical audit, medical review, utilization review and administrative, civil or criminal investigations and prosecutions.
5. Agree that an adequate records system be maintained at the site where medical services are rendered. and that enrollees aged fourteen (14) and over and/or an enrollee's authorized representatives shall be given access to the enrollees' medical records to the extent and in the manner provided by T.C.A. Sections 63-2-101 and 63-2-102, and, subject to reasonable charges, be given copies thereof upon request.



6. Accept monitoring, whether announced or unannounced, of services rendered to enrollees sponsored by the Contractor.
7. Whether announced or unannounced, participate and cooperate in any internal and external Quality Management/Quality Improvement, utilization review, peer review and appeal procedures established by DCS and/or TennCare.
8. Initiate corrective action where necessary to improve quality of care, in accordance with that level of medical care which is recognized as acceptable professional practice in the respective community in which the Contractor practices and/or the standards established by TennCare.
9. Provide for submission of all reports and clinical information required by DCS;
10. Cooperate with all appropriate state and federal Agencies, including TBI MFCU and/or TN OIG, in investigating fraud and abuse. In addition, the Contractor shall fully comply with the provisions of T.C.A. Sections 71-5-2601 and 71-5-2603 in performance of its' obligations under this Contract, including:
 - (a) Fraud and abuse in the administration of the program. Suspected fraud and abuse in the administration of the program shall be reported to TBI MFCU and/or TN OIG, as well as to TennCare office of Program Integrity..
 - (b) Contractor fraud and abuse. All confirmed or suspected contractor fraud and abuse shall immediately be reported to TBI MFCU as well as to TennCare office of Program Integrity.
 - (c) Enrollee fraud and abuse. All confirmed or suspected enrollee fraud or abuse shall be reported immediately to TN OIG.
11. Secure all necessary liability and malpractice insurance coverage as is necessary to adequately protect the enrollees and DCS under this Contract. The Contractor shall provide such insurance coverage at all times during the Contract and upon execution of the Contractor Contract furnish DCS with written verification of the existence of such coverage.
12. The Contractor acknowledges that this Contract incorporates by reference all applicable federal and state laws, TennCare rules and regulations, policies or court orders, and revisions of such laws or regulations, policies and orders shall automatically be incorporated into the Contract, as they become effective or amended. In the event that changes in the Contract are needed as a result of revisions and applicable federal or state law materially affecting the position of either party, DCS and Contractor agree to negotiate such further amendments as may be necessary to correct any inequities.
13. The Contractor recognizes that in the event of termination of the Contract between DCS and TennCare for any reason, the Contractor shall immediately make available, to TennCare, or its designated representative, in a usable form, any or all TennCare Related Documents, whether medical or financial, related to the Contractor's activities undertaken pursuant to the DCS/Contractor Contract. The provision of such records shall be at no expense to TennCare.
14. The Contractor warrants that no part of the total Contract amount provided herein shall be paid directly, indirectly or through a parent organization, subsidiary or an affiliate organization to any state or federal officer or employee of the State of Tennessee or any immediate family member of a state or federal officer or employee of the State of Tennessee as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract unless disclosed to the Commissioner, Tennessee Department of



Finance and Administration. For purposes of Section E.25. of this Contract, "immediate family member" shall mean a spouse or minor child(ren) living in the household.

Quarterly, by January 30, April 30, July 30, and October 30 each year, or at other times or intervals as designated by the Director of the Bureau of TennCare and communicated, in writing, to the Contractor by DCS, disclosure shall be made by the Contractor to DCS in writing and DCS shall forward the disclosure to the Director of the Bureau of TennCare, Department of Finance and Administration.

The disclosure shall include, but not be limited to, the following:

- (a) A list of any state or federal officer or employee of the State of Tennessee as well as any immediate family member of a state or federal officer or employee of the State of Tennessee who receives wages or compensation from the Contractor; and
- (b) A statement of the reason or purpose for the wages or compensation.

The disclosures shall be made by the Contractor and reviewed by TennCare in accordance with Standard Operating Procedures and the disclosures shall be distributed to, amongst other persons, entities and organizations, the Commissioner, Tennessee Department of Finance and Administration, the Tennessee Ethics Commission, the TennCare Oversight Committee and the Fiscal Review Committee.

This Contract may be terminated by DCS and/or the Contractor may be subject to sanctions under this Contract if it is determined that the Contractor, its agents or employees offered or gave gratuities of any kind to any state or federal officials or employees of the State of Tennessee or any immediate family member of a state or federal officer or employee of the State of Tennessee if the offering or giving of said gratuity is in contravention or violation of state or federal law. It is understood by and between the parties that the failure to disclose information as required under Section E.25. of this Contract may result in termination of this Contract and the Contractor may be subject to sanctions in accordance with the provisions of this Contract. The Contractor certifies that no member of or delegate of Congress, the United States General Accounting Office, DHHS, Centers for Medicare and Medicaid Services (CMS), or any other federal agency has or will benefit financially or materially from this Contract.

- 15. Accept general and targeted education regarding emergency appeals, including when an emergency appeal is appropriate, and procedures for providing written certification thereof, and comply with the appeal process, including but not limited to, assisting an enrollee by providing appeal forms and contact information including the appropriate address for submitting appeals for state level review.
- 16. Display notices of the enrollee's right to appeal adverse action affecting services in public areas of their facility(ies) in accordance with TennCare rules and regulations, subsequent amendments, or any and all court orders. DCS shall ensure that Contractors have correct and adequate supply of public notices. DCS



shall ensure that the Contractor will comply with the appeal process, including but not limited to the following:

- (a) assisting an enrollee by providing appeal forms and contact information including the appropriate address for submitting appeals for state level review; and
 - (b) require, in advance, that the Contractor seek prior authorization, when s/he feels s/he cannot order a drug on the TennCare Preferred Drug List (PDL) as well as taking the initiative to seek prior authorization when contacted by an enrollee or pharmacy regarding denial of a pharmacy service due to system edits (i.e., therapeutic duplication, etc.)
17. Acknowledge that the Contractor has been informed of the package of benefits that Early and Periodic Screening, Diagnosis and Treatment (EPSDT TENNderCare) offers as set out in Section 2-3.u of the TennCare MCO Contractor Risk Agreement (CRA) and which requires Contractors to make treatment decisions based upon children's individual medical and behavioral health needs. The Contractor further acknowledges that a copy of Section 2-3.u can be accessed on the TennCare web site shall be furnished to the Contractor upon request. The TennCare Web site is found at: tn.gov/tenncare/promcos.html.
 18. Agree not to encourage or suggest, in writing or verbally, that TennCare children be placed into state custody in order to receive medical or behavioral services covered by TennCare.
 19. Agree to follow DCS and TennCare procedures for the provision of language interpretation and translation services for any enrollee who needs such services, including but not limited to, enrollees with Limited English Proficiency.
 20. Agree that if any requirement in the Contractor's Contract with DCS is determined by TennCare to conflict with the Contract between TennCare and DCS, such requirement shall be null and void and all other provisions shall remain in full force and effect
 21. Certify by signing this Contract, that the Contractor has not been excluded from participation in the Medicare and/or Medicaid programs pursuant to Sections 1128 or 1156 of the Social Security Act or who are otherwise not in good standing with the TennCare program.
 22. Agree to provide hours of operation that are no less than the hours of operation offered to commercial enrollees.
 23. Agree that the Contractor shall not enter into any subsequent agreements or subcontracts for any of the work contemplated under this Contract without approval of DCS.
- E.38. The Contractor shall for each of its programs serving children, families, and/or caregivers, create an agency program profile in the designated state resource directory. The State shall notify Contractor when the designated state resource directory is activated and ready for enrollment. Contractor shall have thirty (30) days from the date of notification to enter its agency program profile(s) into the designated resource directory. Contractor shall update its agency program profile(s) in the designated state resource directory at least every six months. In addition, Contractor shall update its agency program profile(s) within ten (10) days of any change in information. The State will monitor all agency program profile(s) for update activity.
- E.39. Not a DCS Employee. The Contractor shall inform the client in writing that the Contractor is a private provider and not an employee of the State.



10-3-11 RFP

IN WITNESS WHEREOF,

FOOTHILLS CARE, INC.:

JIM PEDIGO, PRESIDENT

9-24-13

DATE

DEPARTMENT OF CHILDREN'S SERVICES:

JAMES M. HENRY, COMMISSIONER

9/26/13

DATE



ATTACHMENT A

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	38925
CONTRACTOR LEGAL ENTITY NAME:	Foothills Care, Inc.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	621328572

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.

Jim Pedigo

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.

Jim PEDIGO - PRESIDENT

PRINTED NAME AND TITLE OF SIGNATORY

9-24-13

DATE OF ATTESTATION



10-3-11 RFP

ATTACHMENT B

LIQUIDATED DAMAGES

Liquidated damages are five hundred dollars (\$500.00) per day per child that is being served by the contract that has been breached, until the Contractor cures the breach, the State exercised its option to declare a partial default, or the State terminates the Contract. A breach is failure to perform any of the required services detailed in the "Provider Policy Manual" for said contract. Such amount represents the costs and efforts necessary to procure alternative vendor(s) to provide the defaulted service; re-staff individual cases, provide or perform the contract requirements; and/or facilitate contract compliance by the Contractor.



10-3-11 RFP

ATTACHMENT C

**Provider
Disclosure of Ownership and Control Interest Statement and
Criminal Information**



Disclosure Form-Ver20110603, State of Tennessee, Bureau of TennCare

PROVIDER
DISCLOSURE OF OWNERSHIP AND CONTROL INTEREST STATEMENT
AND CRIMINAL INFORMATION FORM

If additional space is needed, please note on the form that the answer is being continued, and attach a sheet referencing the item number that is being continued. (For example: Item II. (a) continued.)

Item I. Identifying Information

(a) Name of Provider Person. Their personal NPI(s), Social Security Number (SSN), DOB, and Medicaid ID Numbers:

NPI(s) (put in if you have one)	SSN(s)	DOB	Medicaid ID Numbers (put in if you have one)
N/A			

(add more rows if needed)

(b) Provider Entities' Name and DBA Name, National Provider Identifier (NPI), Federal Tax Identification Number(s) (TIN), and Medicaid ID Number(s):

Entity Name (s)	DBA Name(s)	NPI(s) (put in if you have one)	TIN(s)	Medicaid ID Numbers
FOOTHILLS CARE, INC.		1760547897	62-1828972	5441091

(add more rows if needed)

(c) Check Business/Organization Type:

- (1) Are you the only Provider Person in your practice?
- (2) Do you all practice with other Provider Persons in all the same location(s)?
- (3) Are you any other practice type?



Disclosure Form-Ver20110603, State of Tennessee, Bureau of TennCare

(d) Address (P.O. Boxes are not acceptable; List all practice locations)

Provider Name or DBA Name(s)	Address	City	State	ZIP Code (5+4)
FOOTHILLS CARE, INC.	404 NORTH KENTUCKY ST.	KINGSTON	TN	37763

(add more rows if needed)



Disclosure Form-Ver20110603, State of Tennessee, Bureau of TennCare

Item II. Ownership and Control Information. 42 C.F.R. § 455.100-42 C.F.R. § 455.104.

(a) List the name, home address (no P.O. Box addresses), Date of Birth (DOB), SSN, and percentage owned for each Person with a Direct or Indirect Ownership or Control Interest of 5 percent or more in the Provider Entity. In addition, list the same information for any Subcontractor in which the Provider Entity has direct or Indirect Ownership or Control Interest of 5 percent or more. If you are an Individual AND you are a solo Practitioner and you own 100 percent of your practice then you would just list yourself as 100% owner.

Name	SSN	DOB	% of Ownership or Control	Address	City	State	Zip (5+4)
OMNI VISIONS INC.	62-1456150		100%	301 S. PERIMETER PARK DRIVE	NASHVILLE	TN	37211
* FOOTHILLS CARE, INC. IS A WHOLLY OWNED SUBSIDIARY OF OMNI VISIONS.							

(add more rows if needed)

(b) List whether any of the persons named in II(a) is related to another as a spouse, parent, child, or sibling.

Name	SSN	Relationship
N/A		

(add more rows if needed)



Disclosure Form-Ver20110603, State of Tennessee, Bureau of TennCare

(c) List the name, address, and TIN of any other Provider Entity in which a Person with an Ownership or Control interest in this Provider Entity also has an Ownership or Control Interest.

Name	TIN(s)	Address (no P.O. Boxes)	CITY	STATE	ZIP(+4)
OMNI VISIONS INC.		OWENS Foothills Care, Inc.		100%	

(add more rows if needed)



Disclosure Form-Ver20110603, State of Tennessee, Bureau of TennCare

Item III. Business Transaction Information. 42 C.F.R. § 455.105.

(a) List the name, address, DOB, SSN, and TIN(if a business) for any Subcontractor with whom the Provider Entity has had business transactions totaling more than \$25,000 during the 12-month period ending on the date of the request.

Name	SSN	DOB	TIN(s)	Address (if a business)	City	State	ZIP(+4)
N/A							

(add more rows if needed)



Disclosure Form-ver201 (2/6/03), State of Tennessee, Bureau of TennCare

(b) List any significant business transactions between the Provider Entity and any Subcontractor, or Wholly Owned Supplier, during the 5-year period ending on the date of the request.

Date of Transaction	Person or Entity Name	Amount of Transaction
2007-2012	OMNI VISIONS, INC. HAS EXTENDED Foothills CARE A LINE OF CREDIT THAT IS STILL OPEN	AS OF 12-31-12 \$ 156,619
2007-2012	IN SEPT. 2007, OMNI BEGAN PROVIDING Foothills WITH ADMINISTRATIVE SERVICES (RUNNING BACK OFFICE SUPPORT)	IN 2012, \$ 187,268

(add more rows if needed)



Disclosure Form-Ver20110603, State of Tennessee, Bureau of TennCare

Item IV. Criminal Offense Information. 42 C.F.R. § 455.106.

Purpose (1) On behalf of the Provider entity (a) List the name, home address, DCE, and SSN of each Person with an Ownership or Control Interest in the Provider Entity or is an Agent or Managing Employee of the Provider Entity. If additional space is needed, please note on the form that this answer is being continued, and attach a sheet referencing this Item number.

Name	SSN	DOB	Home Address	City	State	Zip	Role or Title
SEE ATTACHMENT I							

(add more rows if needed)



Disclosure Form-Ver20110603, State of Tennessee, Bureau of TennCare

(b) List the name, home address, DOB, and SSN of each Person with an Ownership or Control Interest in the Provider Entity or is an Agent or Managing Employee of the Provider Entity, that has been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or the Title XX services program since the inception of these programs.

Name	Home Address	SSN	DOB	Title Frame of the Conviction	Nature of the Offense	Jurisdiction and Date of the Conviction	Program Area of the Offense	Sanction Period of the Offense
NONE								

(add more rows if needed)



Disclosure Form-Ver20110603, State of Tennessee, Bureau of TennCare

Purpose (2) On behalf of the Provider Person Have you ever been convicted of a criminal offense related to your involvement in any program under Medicare, Medicaid, or the Title XX services program since the inception of those programs.

Yes No

If 'Yes' is checked, provide the name of the Federal District of conviction for a federal offense(s): _____ and/or the County name of Conviction for State offense(s): _____

If 'Yes' is checked, provide the following information:

Name	DOB	TIN(s)	Time Frame of the Offense	Nature of Offense	Date of the Conviction	Program Area of the Offense	Sanction Period of the Offense

(add more rows if needed)

The State or Federal Medicaid agency may refuse to enter into, renew, or terminate an agreement with a Provider if it is determined that a Provider did not fully, accurately, and truthfully make the disclosures required by this state law. Additionally, false statements or representations of the required disclosures may be prosecuted under applicable federal or state laws, including P.R. § 455.103.

The signature below MUST be the written signature of the Provider, if being filed out by an Individual Practitioner. If the form is being filled out for a Provider entity the signature below MUST be the written signature of a Responsible Party, an individual with legal authority to bind the Provider.

Name of Provider Person or Provider Entities' Responsible Party - Print	Title
Jim PEDIGO	PRESIDENT
Signature of Provider Person or Provider Entities' Responsible Party	Date
	9-24-13



Foothills Care, Inc.

Board of Directors

Steve Kirkham, Board Chairman

1324 Lawnville Road

Kingston, TN 37763

865-717-2400

skirk0319@aol.com

Degree: Tennessee Technological University- Bachelor of Science/Business Administration

Occupation: Rocky Top Markets - CEO

Lee Kribbs, Board Vice Chairman

5510 Glen Cove Drive

Knoxville, TN, 37919

865-567-8999

Leekribbs@aol.com

Degree: University of TN- Master of Science/Planning
- Bachelor of Science/Urban Geography

Occupation: Kribbs & Associates - Retired

Gary Dowdy, Board Secretary

6405 Cloverbrook Drive

Brentwood, TN 37027

615-373-4268

grdody@comcast.net

Degree: University of TN- Bachelor of Science/Public Administration

Occupation: Omni Visions, Inc. - Vice President - Retired

Jim Pedigo, Board Member

402 Webster Road

Harriman, TN 37748

865-882-6886

jpedigo@omnivisions.com

Degree: Tusculum College- Master of Arts- Organizational Management
- Bachelor of Science- Business Administration

Occupation: Foothills Care, Inc. President

OWNERSHIP AND CONTROL:

FOOTHILLS CARE INC. IS 100% OWNED BY OMNI VISIONS, INC.

404 North Kentucky Street



Kingston, Tennessee 37763



Joint Commission
on Accreditation of Healthcare Organizations