



THIS AGREEMENT, made this _____ day of _____ (“Effective Date”), by and between COMPUTER AID, INC., with offices at 3801 Paxton Street, Harrisburg, PA, and Corporate Headquarters at 1390 Ridgeview Drive, Allentown, PA, 18104 (“Contractor”) and

 (“Subcontractor”)

WITNESSETH:

WHEREAS, the Contractor has entered into a contract with the State of Iowa (the "Customer") to provide certain information technology time and materials services under the Iowa Information Technology Managed Services and Staff Augmentation Master Services Agreement, Contract Number 2018 BUS 0521 (“Master Agreement”); and

WHEREAS, the Contractor wishes to hire the Subcontractor to perform certain information technology time and materials services on an as-needed basis relating to the Contractor's aforementioned contract with the Customer (such software, including all know-how, trade secrets, copyrights, and patentable inventions relating thereto, being hereinafter referred to collectively as the "Program Materials"); and

WHEREAS, both the Contractor and the Subcontractor desire to set forth in writing the terms and conditions of their agreement, including their respective rights as to the Program Materials.

NOW, THEREFORE, in consideration of the premises hereof and the mutual covenants and conditions hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby agree as follows:

1. Information Technology Services. On the terms and conditions set forth herein, Contractor hereby engages Subcontractor to perform information technology time and materials services for the Project in which the Contractor is engaged with the Customer, during the term hereof, and Subcontractor hereby accepts such engagement. Subcontractor agrees to use its best efforts, at a level consistent with entities having a similar level of experience and expertise in the IT industry, in the performance of the services called for hereunder. Upon selection by Contractor, in its sole discretion, of any one or more Subcontractor Employees, Contractor shall provide required information for each requirement in accordance with the procedures set forth in Exhibit A. Information will include the following:

- I. the name(s) of the Subcontractor Employee(s) needed by Contractor (each, an “Assigned Employee”);
- II. the name and location of the Contractor Customer for which the Assigned Employee shall work;
- III. the type of employment agreement with the Subcontractor Employee or the name of the Subcontractor Employee's employer, if the Subcontract Employee is not a W-2 Employee;

- IV. the description of skills requested;
- V. the nature of the work to be performed by each Assigned Employee;
- VI. the time period for which Contractor will utilize each Assigned Employee; and
- VII. the Not-to-Exceed hourly fee which Contractor will pay shall be in accordance with the Rate Schedule in Exhibit B.

1.1 If a Subcontractor employee begins work at Customer, and the Customer determines within the first two weeks (10 business days) that the Subcontractor employee does not have the skills or capabilities necessary to complete the job as requested in the original requirement, or the Subcontractor employee resigns from the requirement within the first two weeks (10 business days), the Customer may request that the resource be replaced immediately, and Contractor shall not pay for the work conducted by the unacceptable Subcontractor employee.

2. Term of Agreement. The term of this Agreement shall be for the duration of one (1) year. This Agreement will renew automatically for a period of one (1) year at the end of each term unless either party provides written notice to the other party of its desire to terminate the Agreement no less than thirty (30) days prior to the expiration of the preceding term. Subcontractor is a non-exclusive provider to Contractor. Absent the execution of a Statement of Work, this Agreement does not, in and of itself, represent a commitment by Contractor to receive any Services from Subcontractor or pay Subcontractor any fees.

2.1. Notwithstanding any termination of this Agreement, the terms of paragraphs 7, 8, 9 and 11 hereof shall continue in full force and effect.

3. Compliance. The parties hereto acknowledge that the business relationship is between two independent contractors and is not an employer-employee relationship. The Subcontractor warrants and represents that it is a corporation engaged in the business of providing computer consulting/programming services and that it will continue to act as an independent entity notwithstanding any degree of direction or control exerted over its programming activities by the Contractor. Accordingly, the Subcontractor shall pay and report, as applicable, local, state and federal income tax withholdings, social security taxes, unemployment taxes and such other taxes as may be required with respect to payments received by the Subcontractor for the services provided by it pursuant to this Agreement.

3.1. Further, the Subcontractor agrees to indemnify and hold harmless the Contractor from any demands or damages which may arise pursuant to a claim involving the Subcontractor and which is brought under a theory of an employer-employee relationship such as, but not limited to, a claim for, wages, premiums, employment benefits, discrimination (unless caused by the willful conduct of Contractor or its agents), workers' compensation benefits, unemployment insurance, withholding taxes or payroll taxes.

3.2. Subcontractor shall purchase and maintain insurance for protection from claims under the Worker's Compensation Act and other statutory employee benefit provisions, which are applicable in the state in which this Agreement is being performed. Subcontractor shall obtain and keep in force throughout the term of this Agreement, insurance with the following minimum coverage limits:



TYPE OF INSURANCE	LIMIT	AMOUNT
General Liability (including contractual liability) written on an occurrence basis	General Aggregate Products	\$2 Million
	Comp/Op Aggregate	\$2 Million
	Personal Injury Aggregate	\$2 Million
	Each Occurrence	\$1 Million
Excess Liability, umbrella form	Each Occurrence	\$1 Million
	Aggregate	\$1 Million
Technology Errors & Omissions	Each Occurrence	\$1 Million
	Aggregate	\$1 Million
Workers Compensation and Employer Liability	As required by State law	-
	Employer Liability	\$1 Million
Cyber Liability/Network Security	Each Occurrence	\$1 Million
	Aggregate	\$1 Million

3.3. Subcontractor shall submit a Certificate of Insurance to Contractor evidencing the required insurance coverage and stating that thirty (30) days prior written notice must be given to Contractor before cancellation of the policy. The Certificate of Insurance must designate the Computer Aid, Inc. and the State of Iowa as an additional insured on all policies, must include the following endorsement: "It is hereby agreed and understood that the State of Iowa is named as additional insured, and that the coverage afforded to the State of Iowa under this policy shall be primary insurance. If the State of Iowa has other insurance that is applicable to a loss, such other insurance shall be on an excess, secondary or contingent basis. The amount of the insurer's liability under this policy shall not be reduced by the existence of such other insurance.", and it must also be endorsed to include a blanket waiver of subrogation.

3.4. Contractor shall have the right no more than once a year unless Customer and the Contractor agree that an audit is required at an earlier interval, at its sole cost and expense and upon reasonable prior written notice, itself or through an independent third party, to inspect the books and records of Subcontractor at Subcontractor's location to determine if Subcontractor is performing its obligations in accordance with the terms of this Agreement. If it is determined by the inspection that there was an overpayment of an amount due to Subcontractor by Contractor, Subcontractor shall promptly pay the difference to Contractor together with interest at the rate of one and a half percent (1.5%) per month and, in the event such overpayment exceeds five percent (5%) of the amounts due under the Agreement for such period, Subcontractor shall reimburse Contractor for the costs of the inspection. If it is determined by the inspection that Subcontractor has defaulted in any of its non-monetary obligations under this Agreement, then Contractor may, but shall not be obligated to, pursue its rights and remedies against Subcontractor as permitted hereunder. In no event shall Contractor's failure to enforce its rights upon learning of a default be deemed to be a waiver of such default. Furthermore, if a material default of a non-monetary obligation is uncovered as a result of the inspection, Subcontractor shall promptly reimburse Contractor for the costs of the inspection.

4. Compensation. Contractor agrees to pay Subcontractor the vendor rates set forth on the Engagement within the Vendor Management System (VMS) for all Customer-Approved billable hours for services rendered by Subcontractor during the term of this Agreement or as revised by 4.4. Subcontractor employee must enter time into the VMS on a weekly basis or as directed by the Contractor or Customer. Timesheets will not be considered valid until approved by the Customer within the VMS.



4.1. Subcontractor shall maintain its payroll time records and work reports in accordance with Contractor's requirements for a period of four (4) years. Contractor may audit Subcontractor's books and records during the term of this Agreement and for four (4) years thereafter.

4.2. This Agreement does not entitle Subcontractor to any reimbursement of expenses unless otherwise expressly agreed to in writing in advance as Customer approved and re-billable.

4.3 Subcontractor is required to pay all of its employees, Subcontractors, or subconsultants for all the work that the employee, Subcontractor, or subconsultant has satisfactorily completed no later than ten (10) days after the Subcontractor has received payment from the Contractor. Should the Subcontractor fail to make payments as set forth herein, Contractor shall be entitled to engage the Subcontractor or subconsultant directly and the Subcontractor shall release any non-compete or non-solicitation agreement it may have with the Subcontractor or subconsultant.

4.4 It is understood and agreed that the Customer retains the right to review and amend the bill rates, and therefore, CAI retains the right to revise the Subcontractor's billing rate to CAI. If CAI advises Subcontractor of a revision to billing rates, Subcontractor shall have the option to either (a) agree to the revised rate, or (b) elect to withdraw the resource from the assigned job. The Subcontractor may not compel CAI to pay the original rate agreed to in the Agreement.

5. Payment terms. Subcontractor is not required to submit invoices to the Contractor. Contractor shall use its best efforts to pay all Customer approved time for the month on the 60th calendar day after the invoice date, subject to timely payment from the customer.(example: Invoice will be dated June 8 for time from May1 through May31 and would be paid by August 7).

3%/2 Day Option - Subcontractor shall have the option to be paid on the 8th day of the subsequent month for the previous month's labor that is approved in the VMS no later than the 5th day of the subsequent month, subject to a discount of three percent (3%) of the invoice amount to be retained by the Contractor. All time not approved by the Customer in the VMS by the 5th day of the subsequent month, but approved by the 19th day of the subsequent month shall be paid on the 23rd day of the subsequent month, subject to a discount of one percent (1%) of the invoice amount to be retained by the Contractor. All time not approved by the Customer in the VMS by the 19th day of the subsequent month shall be assigned an invoice date of the approval date and be paid 15 days after the approval date, subject to a discount of one percent (1%) of the invoice amount to be retained by the Contractor. Once the 3%/2 Day option is selected by the Subcontractor, it cannot be changed by Subcontractor for a period of six months. To be clear, if the Subcontractor selects the 3%/2 Day option, the Contractor has the option for each Payment Cycle, to accept the 3% discount and pay on the 8th day of the subsequent month as previously described, or to forego the discount and pay the full invoice amount on the 60th calendar day following invoice date at its sole discretion.

1%/ 15 Day Option - Subcontractor shall have the option to be paid on the 23rd day of the subsequent month (15 days from invoice date) for the previous month's labor that is approved in the VMS by the 19th day of the subsequent month, subject to a discount of one percent (1%) of the invoice amount to be retained by the Contractor. All time not approved by the Customer in the VMS by the 19th day of the subsequent month shall be assigned an invoice date of the



approval date and be paid 15 days after the approval date, subject to a discount of one percent (1%) of the invoice amount to be retained by the Contractor. Once the 1%/15 Day option is selected by the Subcontractor, it cannot be changed by Subcontractor for a period of six months. To be clear, if the Subcontractor selects the 1%/15 Day option, the Contractor has the option for each Payment Cycle, to accept the 1% discount and pay on the 15th day after invoice date as previously described, or to forego the discount and pay the full invoice amount on the 60th calendar day following invoice date at its sole discretion.

6. Indemnification. Subcontractor agrees to defend, indemnify, and hold harmless Contractor and Customer, and their respective agents, representatives, officers, directors, officials, and employees in connection with any claim, damage, loss, or expense (collectively, "claim(s)") that is attributable to: (i) bodily injury, sickness, disease, death or injury to, impairment of, or destruction of tangible property, including loss of use resulting thereof, caused in whole or in part by negligent acts, errors, omissions, or mistakes in the performance of this Agreement, caused by the negligent acts or omissions or conduct of the Subcontractor, its subcontractor, any one directly or indirectly employed by them, or anyone for whose acts they may be liable (collectively, "Subcontractor" for the purposes of this indemnification paragraph); (ii) any responsibility for (a) taxes, damages and interest, (b) contributions required under federal, and/or state and local laws and regulations, (c) any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Workers' Compensation, and (d) non-compliance by Subcontractor of any applicable labor or other law, statutory requirement or regulation; (iii) any claim that a Subcontractor Personnel is an employee of Contractor and/or Customer for purposes of health and welfare benefits or for any other purpose; (iv) infringement of any rights pertaining to intellectual property or software being used by Subcontractor to perform under this Agreement; and, (v) breach of any obligations of Subcontractor hereunder. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph. Subcontractor's obligation to indemnify as stated in this paragraph shall not apply to claim(s) caused by the sole negligence or sole misconduct of Contractor as determined by a final court of competent jurisdiction.

7. Ownership of Program Materials. Subcontractor agrees that all program materials, reports, and other data or materials generated or developed by Subcontractor under this Agreement or furnished by either the Contractor or the Customer to the Subcontractor shall be and remain the property of the Customer. Subcontractor specifically agrees that all copyrightable material developed or created under this Agreement shall be considered works made for hire by Subcontractor for the Customer and that such material shall, upon creation, be owned exclusively by the Customer.

7.1. To the extent that any such material, under applicable law, may not be considered work made for hire by Subcontractor for Customer, Subcontractor agrees to assign and, upon its creation, automatically assigns to Customer the ownership of such material, including any copyright or other intellectual property rights in such materials, without the necessity of any further consideration. Customer shall be entitled to obtain and hold in its own name all copyrights in respect of such materials. Subcontractor shall perform any acts that may be deemed necessary or desirable by Customer to evidence more fully the transfer of ownership of all materials referred to in this paragraph 6 to Customer to the fullest extent possible, including, without limitation, by executing further written assignments in a form requested by Customer.



7.2. To the extent that any preexisting rights of Subcontractor are embodied in the Program Materials, Subcontractor hereby grants to Customer the irrevocable, perpetual, nonexclusive, worldwide royalty-free right and license to (1) use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such pre-existing rights and any derivative works thereof and (2) authorize others to do any or all of the foregoing.

7.3. Subcontractor represents and warrants that it either owns or has valid, paid-up licenses for all software used by it in the performance of its obligations under this Agreement.

8. Protection of Proprietary Materials. From the date of execution hereof and for as long as the information or data remain Proprietary Information or Trade Secrets (as defined in paragraph 7.1), Subcontractor shall not use, disclose, or permit any person to obtain any Proprietary Information or Trade Secrets of Contractor or Customer, including any materials developed or generated hereunder (whether or not the Trade Secrets are in written or tangible form), except as specifically authorized by Contractor or Customer.

8.1. As used herein, "Trade Secrets" shall include, but not be limited to, a whole or any portion or phase of any scientific technical information, design, process, procedure, formula, business plan or improvement relating to the development, design, construction, and operation of Customer's or Contractor's processes in the Application Maintenance Support, and/or Construction Management Development, and/or Desktop Services product offerings areas, that is valuable and not generally known to competitors of Contractor or Customer. "Proprietary Information" shall include, but not be limited to, customer lists, sales and marketing plans and strategic planning.

8.2. Irreparable harm shall be presumed if Subcontractor breaches any covenant of section 7 of this Agreement for any reason. This Agreement is intended to address Contractor's legal obligation to protect Customer's proprietary rights pertaining to the Program Materials and Trade Secrets, and any misuse of such rights would cause irreparable harm to the Contractor and Customer's business. Therefore, Subcontractor agrees that a court of competent jurisdiction should immediately enjoin any breach of this Agreement, upon a request by Contractor.

8.3 Contractor will require each Subcontractor resource performing work for the Customer under the Master Service Agreement to sign an individual agreement, acknowledging their acceptance of the language referenced in this section of the Agreement.

8.4 Subcontractor, and its resources, will be bound to requirements listed in Exhibit C for any requirement taking place under supervision of the Iowa Department of Revenue.

8.5 Subcontractor, and its resources, will be bound to the requirements listed in Exhibit D for any requirement taking place under supervision of the Iowa Department of Human Services, and/or the Iowa Veterans Home.

8.6 Subcontractor, and its resources, will be bound to the requirements listed in Exhibit E for any requirement taking place under supervision of the Iowa Department of Human Services.

9. Return of Materials. Upon the request of Contractor, but in any event upon termination of this Agreement, Subcontractor shall surrender to Contractor all memoranda, notes, records, drawings, manuals, computer software, and other documents or materials, and all copies thereof, pertaining to the Program Materials or furnished by Contractor or Customer to Subcontractor, including all materials embodying any Trade Secrets. This paragraph is intended to apply to all materials made or compiled by Subcontractor, as well as to all materials

furnished to Subcontractor by Contractor or by anyone else that pertain to the Program Materials or Trade Secrets.

9.1 Contractor will require each Subcontractor resource performing work for the Customer under the Master Agreement to sign an individual agreement, acknowledging their acceptance of the language referenced in this section of the Agreement.

10. Termination. This Agreement shall terminate as set forth herein and may be terminated by Contractor at the request of, or due to changes in the services rendered to, Customer. Contractor may terminate this Agreement sooner in the event of Subcontractor's breach or its failure to adequately and/or sufficiently perform its duties hereunder, or if the Customer requires termination sooner. Contractor may terminate this agreement for failure to comply with U.S. or State of Iowa laws or other gross or willful misconduct. It is understood and acknowledged by Subcontractor that its termination of this Agreement in any manner other than as set forth herein shall cause Contractor to incur substantial damages as a result of having to replace Subcontractor and Subcontractor will be held liable for any such damages which Contractor may incur as a result of any premature termination of this Agreement by Subcontractor.

11. Nonsolicitation of Contractor's Customers. Subcontractor agrees that (i) during the term of this Agreement or (ii) during the period the Subcontractor is receiving any fees from Contractor pursuant to this Agreement or (iii) for a period of one year following either the termination or cessation of above fees from Contractor, whichever is later, it will not for any reason whatsoever, directly or indirectly (whether as an employee, agent, consultant, joint venture, partner, lender or investor, owner, shareholder, director or officer): (i) induce or solicit or attempt to induce or solicit the Customer to purchase the services provided by Contractor under this Agreement from any business or organization other than that of Contractor, except in response to a formal solicitation issued by Customer to the general public or if the Customer Contract has been terminated; (ii) induce, solicit, divert, take away or attempt to induce, solicit, divert or take away any employee of Contractor or of any other subcontractor of Contractor serving the Customer, including, but not limited to, leased or retained employees, agents and contractors at the date hereof or in the future (collectively referred to as "Employees" for the purpose of this Section) to become an employee of, be the agent for, or be a consultant or contractor to, any other business or organization; (iii) request or advise the Customer to withdraw, curtail or cancel business with Contractor or request or advise any Employees to withdraw, curtail, terminate or cancel their employment or association with Contractor or any other subcontractor of Contractor serving the Customer; (iv) disclose to any person, firm, corporation or any other business entity the names or addresses of any of the Employees of Contractor or of any other subcontractor of Contractor serving the Customer; and, (v) . use any information regarding customers of Contractor which it may procure during the course of this Agreement.

12. Governing Law and Attorney's Fees. This Agreement is made under, and in all respects shall be interpreted, construed and governed by and in accordance with the laws of the Commonwealth of Pennsylvania, without reference to conflict of law principles. It is agreed that venue for any dispute arising out of this Agreement shall be proper in Lehigh County, Pennsylvania or the United States District Court for the Eastern District of Pennsylvania sitting in Lehigh County, PA. In the event of a dispute hereunder, the prevailing party shall be entitled to recover its reasonable attorney's fees.

13. Assignment. This Agreement may not be assigned by Subcontractor without the written consent of Contractor.



14. Entire Agreement and Modification. This Agreement, together with the Master Agreement between the Contractor and the Customer and the Exhibits attached hereto, contain the entire agreement between the parties and there are no other representations or warranties and this Agreement supersedes any prior oral or written agreement or negotiations between the parties. This Agreement may only be modified by a written agreement signed by all parties that are to be bound by the modification.

15. Authority. If the party signing this Agreement is doing so as representative of either party, that person guarantees and represents that they have the express authority to bind their respective party and that entering into this Agreement does not violate the provisions of any other contract into which the Subcontractor has entered.

16. Notices. Any notice, demand, request, or other communication (any "Communication") required or permitted to be given or made to or by either party hereunder or under the Agreement shall be in writing. Any Communication shall be deemed to have been delivered on the earlier of the day actually received (by whatever means sent) if received on a business day (or if not received on a business day, on the first business day after the day of receipt) or, regardless of whether or not received after the dates hereinafter specified, on the first business day after having been delivered to Federal Express or comparable air courier service, or on the second business day after having been deposited with the United States Postal Service, Express Mail, return receipt requested, or on the third business day after having been deposited with the United States Postal Service, registered or certified mail, return receipt requested, in each case addressed to the respective party at the several addresses indicated below or to such other addresses as may hereafter be indicated by notice delivered in accordance with the terms hereof to the other party.

If to Contractor:

If to Subcontractor:

Contract Administrator
Computer Aid, Inc.
1390 Ridgeview Drive
Allentown, PA 18104

Copy to:

Gregg M. Feinberg, Esq.
Feinberg Law Office
1390 Ridgeview Drive
Suite 301
Allentown, PA 18104-9065

17. Miscellaneous. All of the terms and provisions of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties hereto and their respective heirs, successors, legal representatives and permitted assigns.

If any of the provisions of this Agreement are ultimately deemed by a court of competent jurisdiction to be illegal, invalid or unenforceable, such provisions shall be deleted and the remaining terms and provisions of this Agreement shall continue in full force and effect.



Each party hereto shall be excused from performance hereunder for any period and to the extent that it is prevented from performing any services pursuant hereto in whole or in part, as a result of delays caused by the other party or an act of God, or other cause beyond its reasonable control and which it could not have prevented by reasonable precautions, including failures or fluctuations in electric power, heat, light, air conditioning or telecommunication equipment, and such nonperformance shall not be a default hereunder or a ground for termination hereof. Subcontractor's time of performance shall be enlarged, if and to the extent reasonably necessary, in the event that: (i) Customer fails to submit input data in the prescribed form or in accordance with the agreed upon schedules; (ii) special request by Customer or any governmental agency authorized to regulate, supervise, or impact CAI's normal processing schedule; (iii) Customer fails to provide any equipment, software, premises or performance called for by this Agreement, and the same is necessary for Subcontractor's performance hereunder. Subcontractor will notify Customer and Contractor of the estimated impact on its processing schedule, if any. In the event Subcontractor is responsible for an error in processing Customer's data, Subcontractor promptly will correct such error.

18. Subcontractor acknowledges that Contractor has or will enter into an agreement with the Customer to provide the services referenced herein and that the Subcontractor has had the opportunity to review said agreement and the terms and conditions of the Master Agreement between the Contractor and the Customer, accessible via the "Master Contract" link on the contract web portal, <http://cai.io/msp/iowa>. The Subcontractor agrees that these terms and conditions will become part of this Agreement, binding the Subcontractor to the terms and conditions of the Master Agreement. In the event of a conflict between the terms and conditions contained herein and those contained in the Master Agreement, the terms and conditions in the Master Agreement shall prevail. This Agreement may be executed in several counterparts, all of which taken together shall constitute one single agreement between the parties hereto.

The section headings used herein are for reference and convenience only and shall not enter into the interpretation hereof.

18.1 Subcontractor is responsible for providing information, resumes and employees in accordance with the processes defined in Exhibit A. Failure to comply that results in Contractor not meeting the service level agreements in the Master Agreement may result in a reduction in the use of Subcontractor's services.

18.2 Subcontractor will use industry best practices testing mechanisms to validate and verify employee's technical skills as described in their respective resume. Contractor may request documentation to substantiate the claimed skills on a resume. In the event that subcontractor fails to submit documentation in a timely manner Contractor reserves the right to hold the resume for submission to the client until such time as the documentation is submitted or the requirement is filled.

19. Background checks. Subcontractor shall conduct a national background check on any and all IT staff selected by the State for assignment via the VMS Contract. The national background check is in addition to any agency-specific background check or any other check(s) as may be required for the applicable position. Subcontractor shall be responsible for payment of all costs associated with any such background or other check(s). The Subcontractor will provide Contractor with the background check results via the VMS prior to work assignment start. The Customer reserves the right to subject any IT staff to additional background check

requirements, at any time, which may be conducted by Customer or its designee directly, including but not limited to:

(i) DCI criminal screening, fingerprinting, and a national criminal history check through the Federal Bureau of Investigation, and checks at local law enforcement agencies where the individual lived, worked and/or attended school within the previous five (5) years. The criminal records check is a name-based and fingerprint-based criminal history records check using the Federal Bureau of Investigation's National Crime information Center (NCIC) and the Integrated Automated Fingerprint Identification System (IAFIS) database and state repository records on each applicant and employee to determine if a criminal history exists.

(ii) Any other background check requirement required by applicable law, rule, or regulation.

The Subcontractor must also report any disciplinary action, misdemeanor or felony convictions received by its resources while on Contract assignment within 30 days of receiving said action or conviction.

20. Targeted Small Business (TSB) Certifications. If Subcontractor is no longer certified as a TSB with the Iowa Department of Inspections and Appeals, Subcontractor must notify Contractor within 15 days of losing said certification.

21. Visas. Subcontractor must maintain valid Visas for any of its employees for whom a Visa is required. Any failure to do so will result in removal of the employee and may result in the cancellation of this Agreement.

22. Limitations on Subcontractor Layering. All candidates submitted by Subcontractor for consideration must have a W-2 or 1099 relationship with Subcontractor, or be no more than one (1) contracting layer removed. If instances of additional layering are discovered, Contractor will engage the candidate through W-2 Subcontractor. All employer and/or Subcontracting details must be reported accurately through the VMS system.

23. Usage of e-Verify System. The State may require that the Contractor and/or Subcontractor utilize e-Verify employment eligibility verification of resources selected for engagement in order to comply with contractual requirements. Contractor and/or Subcontractor will be responsible for all costs associated with the usage of e-Verify.



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on the day and year first above written.

CONTRACTOR

COMPUTER AID, INC.

SUBCONTRACTOR

By: _____

Signature of Authorized Representative

By: _____

Signature of Authorized Representative

Printed Name

Printed Name

Title

Title

Date

Date

Subcontractor agrees to the following payment terms (Initial one):

_____ **3%/2 Day Option (Subject to a discount of three percent (3%) of the invoice amount to be retained by Contractor if paid on the 8th day, as per section 5 of this Agreement.** The Contractor has the option, at its sole discretion, for each Payment Cycle, to accept the 3% discount and pay on the 8th Day or to pay the full invoice amount on the 60th day after the invoice date. These payment terms shall be effective for 6 months and may then be changed at the request of the Subcontractor.

_____ **1%/ 15 Day Option (Subject to a discount of one percent (1%) of the invoice amount to be retained by Contractor if paid on the 23rd day, (15 days from invoice date) as per section 5 of this Agreement.** The Contractor has the option, at its sole discretion, for each Payment Cycle, to accept the 1% discount and pay on the 23rd Day or to pay the full invoice amount on the 60th day after the invoice date. These payment terms shall be effective for 6 months and may then be changed at the request of the Subcontractor.

_____ **Net 60 Days after invoice date.** These payment terms shall be effective for 6 months and may then be changed upon mutual agreement by the Contractor and Subcontractor.

Exhibit A: Iowa Information Technology Managed Services and Staff Augmentation Master Services Agreement Requisitioning Process

The following narrative describes the Iowa Information Technology Managed Services and Staff Augmentation Master Services Agreement requisitioning process once the requirement (requisition) has been approved by the State and CAI, the contract's Managed Service Provider (MSP).

Step 1: Once the requisition is complete and approved, the CAI Account Manager releases the requisition to the Vendor network via the web-based Vendor Management System (VMS).

Step 2: Vendor reviews the requisition. If the Vendor has resources who they feel fit the description of the need, they will submit their information and resumes through the VMS.

Step 3: The CAI Account Manager monitors the VMS and receives all submitted resumes from the Vendor network.

Step 4: The CAI Account Manager reviews the resumes and selects a group of resumes to present to the Agency Hiring Manager, based on skill and experience match and availability. The CAI Account Manager then forwards the resume matches the Hiring Manager for review. Please note: This must happen within the required time frame identified in the contract's service level agreements.

Step 5: The Agency Hiring Manager reviews the forwarded resumes and selects an appropriate number of resources to interview.

Step 6: The Agency Hiring Manager then notifies the CAI Account Manager of his or her selection.

Step 7: The CAI Account Manager notifies the selected Vendor/candidate and coordinates interviews with the Agency Hiring Manager.

Step 8: The Agency Hiring Manager interviews the candidate, either by phone or in-person.

Step 9: The Agency Hiring Manager selects a candidate and provides the CAI Account Manager with complete engagement details, including specific information on the resource, role, responsibilities, timing, and job location.

Step 10: The CAI Account Manager receives the engagement information and reviews for accuracy. The CAI Account Manager then notifies the Vendor Network that a candidate has been selected, and notifies the appropriate Vendor that their individual candidate was selected. The CAI Account Manager also ensures that all applicable background checks, drug tests, and all other on-boarding tasks are completed.

Step 11: The Vendor of the selected candidate notifies the candidate of selection and provides all job details to the candidate. The Vendor also assists the candidate in completing all on-boarding activities (i.e. background checks).

Step 12: The CAI Account Manager forwards final hire details to the Agency Hiring Manager and Vendor.

Step 13: The candidate begins work.

Exhibit B: Information Technology Managed Services and Staff Augmentation Master Services Agreement Not-to-Exceed Rate Card

Job Title	Level	Vendor Not-to-Exceed
Applications Architect	AA1	\$79.77
Applications Architect	AA2	\$91.92
Applications Architect	AA3	\$100.24
Applications Systems Analyst	ASA1	\$58.66
Applications Systems Analyst	ASA2	\$63.51
Applications Systems Analyst	ASA3	\$69.52
Business Analyst	BA1	\$38.47
Business Analyst	BA2	\$47.09
Business Analyst	BA3	\$51.54
Business Analyst	BA4	\$54.04
Business Analyst	BA5	\$61.08
Business Analyst	BA5B	\$65.13
Business Analyst	BA6	\$76.87
Business Subject Matter Expert - Executive	SMEE2	\$99.69
Business Subject Matter Expert - Management	SMEM1	\$112.09
CADD/GIS Administrator	CGA1	\$42.65
CADD/GIS Administrator	CGA2	\$50.41
CADD/GIS Administrator	CGA3	\$55.30
CADD/GIS Technician	CGT1	\$30.03
Cloud Administrator	CAM1	\$62.85
Cloud Administrator	CAM2	\$70.08
Cloud Administrator	CAM3	\$78.03
Cloud Architect	CAR1	\$75.30
Cloud Architect	CAR2	\$82.72
Cloud Architect	CAR3	\$90.51
Cloud Developer	CD1	\$68.19
Cloud Developer	CD2	\$76.74
Cloud Developer	CD3	\$85.12
Cloud Developer	CD4	\$94.01
Computer Operator	CO1	\$38.06
Computer Operator	CO2	\$41.29

Job Title	Level	Vendor Not-to-Exceed
Database Administrator	DBA1	\$47.21
Database Administrator	DBA2	\$56.43
Database Administrator	DBA3	\$61.87
Database Administrator	DBA4	\$64.86
Database Administrator	DBA5	\$72.21
Database Administrator	DBA6	\$75.98
Desktop Support	DS1	\$27.71
Desktop Support	DS2	\$30.64
Desktop Support	DS3	\$33.28
Development Team Lead	DTL1	\$98.37
Enterprise Architect	ET1	\$107.61
Enterprise Architect	ET2	\$120.02
ERP Analyst	EA1	\$62.51
ERP Analyst	EA2	\$68.52
ERP Analyst	EA3	\$75.14
ERP Database Administrator	EDBA1	\$66.17
ERP Database Administrator	EDBA2	\$73.96
ERP Database Administrator	EDBA3	\$82.01
ERP Developer	EED1	\$62.51
ERP Developer	EED2	\$68.52
ERP Developer	EED3	\$75.14
ERP Project Manager	EP1	\$97.43
ERP Project Manager	EP2	\$107.05
GIS Analyst	GISA1	\$125.79
GIS Systems Specialist	GISS1	\$98.37
GIS Systems Specialist	GISS2	\$102.32
GIS Technician	GIST1	\$68.68
GIS Technician	GIST2	\$80.26
GIS Technician	GIST3	\$89.33
Graphic Designer	GD1	\$50.44
Graphic Designer	GD2	\$55.46
Help Desk Support	HDS1	\$16.30
Help Desk Support	HDS2	\$33.46
Help Desk Support	HDS3	\$35.75
Infrastructure Architect	IA1	\$58.71
Infrastructure Architect	IA2	\$65.34
Infrastructure Architect	IA3	\$71.53

Job Title	Level	Vendor Not-to-Exceed
Infrastructure Technical Specialist	ITS1	\$76.72
Infrastructure Technical Specialist	ITS2	\$88.57
Infrastructure Technical Specialist	ITS3	\$99.69
Infrastructure Technical Specialist	ITS4	\$112.09
Intern	IN1	\$16.49
IT Security Architect	ITSA1	\$96.56
IT Security Architect	ITSA2	\$109.40
IT Security Auditor	ITAU1	\$121.95
IT Security Engineer	ISE1	\$87.33
IT Security Engineer	ISE2	\$95.34
IT Security Engineer	ISE3	\$105.60
IT Strategist	ITS1	\$111.89
IT Strategist	ITS2	\$125.43
LAN/WAN Administrator	LWA1	\$63.71
LAN/WAN Administrator	LWA2	\$70.53
Lead Computer Operator	LCO1	\$59.63
Lead Computer Operator	LCO2	\$73.07
Lead Help Desk Analyst	LHDA1	\$67.07
Mobile Specialist	MS1	\$61.75
Mobile Specialist	MS2	\$73.97
Mobile Specialist	MS3	\$81.71
Mobile Specialist	MS4	\$86.07
Network Analyst	NA1	\$40.49
Network Analyst	NA2	\$48.39
Network Analyst	NA3	\$53.60
Network Analyst	NA4	\$56.44
Network Architect	NAR1	\$81.78
Network Architect	NAR2	\$87.82
Network Engineer	NE1	\$44.60
Network Engineer	NE2	\$52.67
Network Engineer	NE3	\$57.56
Network Engineer	NE4	\$60.20
Program Manager/Engagement Manager	PREM1	\$128.45
Program Manager/Engagement Manager	PREM2	\$156.49



Job Title	Level	Vendor Not-to-Exceed
Project Manager	PM1	\$52.40
Project Manager	PM2	\$62.29
Project Manager	PM3	\$68.07
Project Manager	PM3B	\$75.36
Project Manager	PM4	\$81.24
Project Manager	PM5	\$86.32
Project Manager	PM6	\$95.15
QA Manager	QAM1	\$89.23
Quality Assurance/Tester	QAT1	\$39.78
Quality Assurance/Tester	QAT2	\$44.46
Quality Assurance/Tester	QAT3	\$46.69
Security Analyst	SA1	\$39.67
Security Analyst	SA2	\$47.02
Security Analyst	SA3	\$51.63
Security Analyst	SA4	\$54.08
Senior Systems Architect	SSYSAR1	\$86.46
Software Developer/Programmer	SDP1	\$47.79
Software Developer/Programmer	SDP2	\$56.29
Software Developer/Programmer	SDP3	\$61.22
Software Developer/Programmer	SDP4	\$64.01
Software Developer/Programmer	SDP5	\$69.79
Software Developer/Programmer	SDP6	\$78.68
Storage Administrator	STORADM1	\$49.01
Storage Administrator	STORADM2	\$58.49
Storage Administrator	STORADM3	\$63.93
Storage Administrator	STORADM4	\$66.80
Systems Administrator	SYSADM1	\$39.62
Systems Administrator	SYSADM2	\$44.01
Systems Administrator	SYSADM3	\$47.16
Systems Administrator	SYSADM4	\$49.19
Systems Architect	SYSAR1	\$79.44
Technical Specialist	TS1	\$64.29
Technical Specialist	TS2	\$80.35
Technical Specialist	TS3	\$87.35
Technical Specialist	TS4	\$94.71
Telecom Engineer	TE1	\$65.95
Telecom Engineer	TE2	\$72.84

Job Title	Level	Vendor Not-to-Exceed
Trainer/Technical Writer	TTW1	\$30.46
Trainer/Technical Writer	TTW2	\$36.61
Voice/Data Engineer	VDE1	\$38.42
Voice/Data Engineer	VDE2	\$44.54
Voice/Data Engineer	VDE3	\$46.49
Web Content Architect	WCA1	\$30.42
Web Content Architect	WCA2	\$36.40
Web Content Architect	WCA3	\$40.05
Web Content Architect	WCA4	\$42.03
Web Developer	WD1	\$64.98
Web Developer	WD2	\$72.12
Website Architect	WA1	\$44.66
Website Architect	WA2	\$52.70
Website Architect	WA3	\$57.97
Website Architect	WA4	\$61.06

Exhibit C: Iowa Department of Revenue – Confidential Information Requirements for Contractors

I. Access to Confidential Data

The contractor's employees, agents, and subcontractors may have access to confidential data maintained by the Iowa Department of Revenue (hereafter referred to as 'IDR' or 'the Department') to the extent necessary to carry out its responsibilities under the Contract. The contractor shall presume that all information received pursuant to the Contract is confidential unless otherwise designated by the Department.

II. Performance

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

- 1) All work will be done under the supervision of the contractor or the contractor's employees.
 - i) The contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the contractor in connection with the performance of its duties under the Contract.
 - ii) The contractor shall provide adequate supervision and training to its employees, agents, or subcontractors to ensure compliance with the terms of the Contract. Annual training shall include, but is not limited to, the IRS video "Protecting Tax Information".
 - iii) The contractor shall provide acceptance by its employees, agents, or subcontractors, by signature, of the terms of federal and state confidentiality disclosure (see Exhibit 1 Acknowledgment of Statements of Confidentiality).
 - iv) The contractor shall provide to the Department a written description of its policies and procedures to safeguard confidential information. Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats.
 - v) The contractor will maintain a list of employees, agents, or subcontractors with authorized access to the Department's data. Such list will be provided to IDR and, when federal tax information (FTI) is involved, to the Internal Revenue Service (IRS) reviewing office upon request.
 - vi) The contractor and the contractor's employees, agents, and subcontractors with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.
 - vii) No work furnished under this Contract will be subcontracted without prior written approval from the Department. If written approval is received, all subcontractors and subcontractor's employees shall be held to the same standards as the contractor and the contractor's employees, including, but not limited to, annual training and acceptance of confidentiality disclosure.
 - viii) No data can be accessed by contractor, or contractor's employees, agents, and subcontractors located offshore or via any information systems located off-shore.
 - ix) The contractor will complete a security risk assessment questionnaire annually, as part of a certification process with the Department.
- 2) Any tax information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of its duties under this Contract. Inspection by or



disclosure to anyone other than an authorized officer, employee, agent or subcontractor of the contractor is prohibited.

- 3) All tax information will be accounted for upon receipt and properly safeguarded in accordance with security requirements set forth in this Contract before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
- 4) Upon completion of duties under this Contract or the specific direction of IDR, the contractor will certify that the data processed and any output generated during the performance of duties under this Contract will be completely purged from all data storage components, including, but not limited to data center facility, laptops, computers and other storage devices. If immediate purging of all data storage components is not possible, the contractor will certify that any tax information remaining in any storage component will be safeguarded to prevent unauthorized disclosures until it has been purged. Once all data processed and output generated has been completely purged, the contractor shall submit a signed certification to the Department to that effect.
- 5) Any spoilage or intermediate hardcopy output that may result during the processing of tax information will be given to the Department. When this is not possible, the contractor will be responsible for the destruction of the spoilage or intermediate hard copy printouts, and will provide the Department with a statement containing the date of destruction, description of material destroyed, and the method used. Destruction method must meet specifications as defined in IRS Publication 1075 Section 8.3.
- 6) The contractor will ensure that all computer systems processing, storing, or transmitting tax information meets the computer system security requirements defined in IRS Publication 1075 Section 9.1. The security features of the computer systems must meet all functional and assurance requirements for the managerial, operational, and technical security controls. All security features must be available and activated to protect against unauthorized use of and access to tax information.
- 7) The use of personally owned computers for accessing IDR information is strictly prohibited.
- 8) Any data supplied by IDR to the contractor or contractor's employees, agents, or subcontractors or created by the contractor or contractor's employees, agents, or subcontractors in the course of the performance of its duties under this Contract shall be considered the property of IDR. No confidential information collected, maintained, or used in the course of performance of the Contract shall be disseminated by the contractor or contractor's employees, agents, or subcontractors except as authorized by law and only with the prior written consent of the Department, either during the period of the Contract or thereafter. The contractor may be liable for an unauthorized disclosure if it fails to comply with federal and state confidential safeguard requirements.
- 9) In the event that a subpoena or other legal process is served upon the contractor for records containing confidential information, the contractor shall promptly notify IDR and cooperate with the Department in any lawful effort to protect the confidential information.



- 10) The contractor shall immediately report to IDR any unauthorized disclosure or security breach of confidential information. These include, but are not limited to: (i) Unauthorized access or disclosure of confidential information; (ii) Illegal technology transfer; (iii) Sabotage, destruction, theft, or loss of confidential information or the information systems, and (iv) Compromise or denial of confidential information or information systems.
- 11) IDR and the IRS, with 24 hour notice, shall have the right to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work under this Contract for compliance with requirements defined in IRS Publication 1075. The IRS's right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. An inspection questionnaire may be used in lieu of an on-site visit at the discretion of the IRS. On the basis of such inspection, specific actions may be required of the contractor in cases where the contractor is found to be noncompliant with Contract safeguards.
- 12) If the Department is required to notify taxpayers of a security or confidentiality breach caused by the contractor, the Department is entitled to reimbursement of such costs related to this notification from the contractor (see Iowa Code § 715C.2).
- 13) If the contractor fails to provide the safeguards described above, IDR will have the right to void the Contract immediately.
- 14) The contractor's confidentiality obligations under this section shall survive the termination of this Contract.
- 15) Any disclosure of federal tax information shall be subject to penalties prescribed by IRC §§ 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1. Any disclosure of state tax information as governed by the Iowa Code Ann., §§ 422.20, 422.72, and 452A.63, shall be subject to penalties prescribed therein.

III. Criminal/Civil Sanctions

- 1) Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Each officer and employee shall be further notified that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC §§7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
- 2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Agreement. Information contained in such material shall be treated as confidential and shall not be

divulged or made known in any manner to any person except as may be necessary in the performance of the Agreement. Inspection by any unauthorized person constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Each such officer and employee shall be notified that any such unauthorized inspection of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection plus in the case of a willful inspection which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRC §§ 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

- 3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
- 4) Granting a contractor access to FTI must be preceded by certifying that each individual understands IDR's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in IDR's files for review. As part of the certification and at least annually afterwards, the contractor shall be advised of the provisions of IRC §§7213, 7213A, and 7431. The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches (See Publication 1075 Section 10). For both the initial certification and the annual certification, the contractor's employees, agents, and subcontractors shall sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.



Exhibit D: State of Iowa – Business Associate Agreement

THIS Business Associate Agreement (“**BAA**”) supplements and is made a part of the Agreement (hereinafter, the “**Underlying Agreement**”) between the Governmental Entities identified in attachment A (the “**Agency**”) and the Contractor (the “**Business Associate**”).

1. **Purpose.** The Business Associate performs certain services on behalf of or for the Agency pursuant to the Underlying Agreement that may include the exchange of information that is protected by the Health Insurance Portability and Accountability Act of 1996, as amended, and the HIPAA Rules (collectively “**HIPAA**”). The parties to the Underlying Agreement are entering into this BAA to establish the responsibilities of both parties regarding Protected Health Information and to bring the Underlying Agreement into compliance with HIPAA.
2. **Definitions.** The following terms used in this BAA shall have the same meaning as those terms in the HIPAA Rules: Breach, Designated Record Set, Disclose, Disclosure, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

Specific definitions:

- a. **Business Associate.** “**Business Associate**” shall generally have the same meaning as the term “**Business Associate**” at 45 C.F.R. § 160.103, and in reference to the party to this BAA, shall mean the Contractor.
 - b. **Covered Entity.** “**Covered Entity**” shall generally have the same meaning as the term “**Covered Entity**” at 45 C.F.R. § 160.103, and in reference to the party to this BAA shall mean the portions of the Agency, which is a “**hybrid**” entity under HIPAA, that fall under the purview of HIPAA.
 - c. **HIPAA Rules.** “**HIPAA Rules**” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Part 160 and Part 164.
3. **Obligations and Activities of Business Associate.** The Business Associate agrees to:
 - a. Not Use or Disclose Protected Health Information other than as permitted or required by this BAA or as Required By Law;
 - b. Use appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 with respect to Protected Health Information, to prevent Use or Disclosure of Protected Health Information other than as provided for by this BAA;
 - c. Report to the Covered Entity any Use or Disclosure of Protected Health Information not provided for by this BAA of which it becomes aware, including Breaches of Unsecured Protected Health Information as required at 45 C.F.R. § 164.410, and any Security Incident of which it becomes aware in accordance with subsection 7, below;
 - d. In accordance with 45 C.F.R. § 164.502(e)(1)(ii) and 45 C.F.R. § 164.308(b)(2), if applicable, ensure that any Subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of the Business Associate agree to the same



- restrictions, conditions, and requirements that apply to the Business Associate with respect to such information;
- e. Make available Protected Health Information in a Designated Record Set to the Covered Entity as necessary to satisfy the Covered Entity's obligations under 45 C.F.R. §164.524;
 - f. Make any amendment(s) to Protected Health Information in a Designated Record Set as directed or agreed to by the Covered Entity pursuant to 45 C.F.R. §164.526, or take other measures as necessary to satisfy the Covered Entity's obligations under 45 C.F.R. § 164.526;
 - g. Maintain and promptly make available, as directed by the Covered Entity, the information required to provide an accounting of Disclosures to the Covered Entity as necessary to satisfy the Cover Entity's obligations under 45 C.F.R. § 164.528;
 - h. Immediately (*i.e.*, within 72 hours) forward any request that the Business Associate receives directly from an Individual who (1) seeks access to Protected Health Information held by the Business Associate pursuant to this BAA, (2) requests amendment of Protected Health Information held by the Business Associate pursuant to this BAA, or (3) requests an accounting of Disclosures, so that the Covered Entity can coordinate the response;
 - i. To the extent the Business Associate is to carry out one or more of the Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s); and
 - j. Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

4. Permitted Uses and Disclosures by the Business Associate.

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



and used or further Disclosed only as Required By Law or for the purposes for which it was Disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the Protected Health Information has been Breached.

5. Obligations of the Covered Entity.

- a. The Covered Entity will notify the Business Associate of any limitation(s) in the Notice of Privacy Practices of Covered Entity under 45 C.F.R. § 164.520, to the extent that such limitation may affect the Business Associate's Use or Disclosure of Protected Health Information
- b. The Covered Entity will notify the Business Associate of any changes in, or revocation of, the permission by an Individual to Use or Disclose his or her Protected Health Information, to the extent that such changes may affect the Business Associate's Use or Disclosure of Protected Health Information.
- c. The Covered Entity shall notify the Business Associate of any restriction on the Use or Disclosure of Protected Health Information that the Covered Entity has agreed to or is required to abide by under 45 C.F.R. § 164.522, to the extent that such restriction may affect the Business Associate's Use or Disclosure of Protected Health Information.

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

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

- a. To notify the Covered Entity of any Breach. Such notice by the Business Associate shall be provided without unreasonable delay, except where a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security. For purposes of this BAA, the Business Associate is deemed to have discovered the Breach as of the first day on which such Breach is known to the Business Associate or by exercising reasonable diligence, would have been known to the Business Associate, including any person, other than the Individual committing the Breach, that is a workforce member or agent of the Business Associate;
- b. To include to the extent possible the identification of the Individuals whose Unsecured Protected Health Information has been, or is reasonably believed to have been, the subject of a Breach;
- c. To complete and submit the appropriate Information Security Data Breach Incident Report form identified in attachment A; and
- d. To draft a letter for the Covered Entity to utilize to notify the Individuals that their Unsecured Protected Health Information has been, or is reasonably believed to have been, the subject of a Breach. The draft letter must include, to the extent possible:



- i. A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
- ii. A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as full name, Social Security Number, date of birth, home address, account number, disability code, or other types of information that were involved);
- iii. Any steps the Individuals should take to protect themselves from potential harm resulting from the Breach;
- iv. A brief description of what the Covered Entity and the Business Associate are doing to investigate the Breach, to mitigate harm, and to protect against any further Breaches; and
- v. Contact procedures for Individuals to ask questions or learn additional information, which shall include Covered Entity contact information, including a toll-free telephone number, an e-mail address, web site, or postal address.

8. BAA Administration.

- a. *Term and Termination.* This BAA is effective on the date of its incorporation into the Underlying Agreement. The Covered Entity may terminate this BAA for cause if the Covered Entity determines that the Business Associate or any of its Subcontractors or agents has breached a material term of this BAA. The Covered Entity will provide written notice to the Business Associate requesting that the Business Associate remedy the breach within the time frame provided in the notice. The remedy time frame provided the Business Associate will be consistent with the severity of the breach. The Covered Entity reserves the right to terminate the BAA without notice in the event that the Covered Entity determines, in its sole discretion, that notice is either infeasible or inappropriate under the circumstances. Expiration or termination of either the Underlying Agreement or this BAA shall constitute expiration or termination of the corresponding agreement.
- b. *Obligation to Return PHI, Destroy PHI, or Extend Protections to Retained PHI.* Upon expiration or termination of this BAA for any reason, the Business Associate shall return to the Covered Entity or destroy all Protected Health Information received from Covered Entity, or created, maintained, or received by the Business Associate on behalf of the Covered Entity, that the Business Associate still maintains in any form. Return or destruction of Protected Health Information shall take place in accordance with the requirements for such return or destruction as set forth in the Underlying Agreement or as otherwise directed by the Covered Entity. The Business Associate shall retain no copies of the Protected Health Information unless such return or destruction is not feasible. If return or destruction of the Protected Health Information is not feasible, upon expiration or termination of this BAA, the Business Associate shall:
 - i. Retain only that Protected Health Information that is necessary for the Business Associate to continue its proper management and administration or to carry out its legal responsibilities to the extent Required By Law;
 - ii. Return to the Covered Entity or destroy the remaining Protected Health Information that the Business Associate still maintains in any form;



- iii. Continue to use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to Protected Health Information to prevent Use or Disclosure of the Protected Health Information, other than as provided for in this Section, for as long as the Business Associate retains the Protected Health Information;
 - iv. Not Use or Disclose the Protected Health Information retained by the Business Associate other than for the purposes for which such Protected Health Information was retained and subject to the same conditions set out in subsection 4(e) above under “Permitted Uses and Disclosures by the Business Associate” which applied prior to termination; and
 - v. Return to the Covered Entity or destroy the Protected Health Information retained by the Business Associate when it is no longer needed by the Business Associate for its proper management and administration or to carry out its legal responsibilities.
- c. *Compliance with Confidentiality Laws.* The Business Associate acknowledges that it must comply with all applicable laws that may protect the Protected Health Information or other patient information received and will comply with all such laws, which include but are not limited to the following:
- i. Mental health treatment: Iowa Code chapters 228, 229;
 - ii. HIV/AIDS diagnosis and treatment: Iowa Code § 141A.9;
 - iii. Substance abuse treatment: 42 U.S.C. § 290dd-2; 42 C.F.R. part 2; Iowa Code §§ 125.37, 125.93; and
 - iv. Consumer personal information: Iowa Code ch. 715C.
- d. *Financial Obligations for Breach Notification.*
- i. To the extent that the Business Associate is a governmental agency subject to the provisions of Iowa Code § 679A.19, any dispute between the Contractor and the Agency, including but not limited to the incursion of any costs, liabilities, damages, or penalties related to the Business Associate’s breach of this BAA, shall be submitted to a board of arbitration in accordance with Iowa Code § 679A.19.
 - ii. To the extent that the Business Associate is not subject to the provisions of Iowa Code § 679A.19, the Business Associate shall indemnify and hold harmless the Covered Entity from costs, liabilities, damages, or penalties incurred as a result the Business Associate or any Subcontractor’s breach of this BAA, the Underlying Agreement, or conduct of the Business Associate or the Business Associate’s Subcontractor that is not in compliance with 45 C.F.R. Part 164, subpart E. Such liability shall not attach to disclosures made at the express written direction of the Covered Entity.
 - iii. The Business Associate’s obligations under this subsection 8(d) are not limited to third-party claims but shall also apply to claims by the Covered Entity against the Business Associate.
- e. *Amendment.* The Covered Entity may amend the BAA from time to time by posting an updated version of the BAA on the Agency’s website at:
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- <http://www.dhs.state.ia.us/Consumers/Health/HIPAA/Home.html>, and providing the Business Associate electronic notice of the amended BAA. The Business Associate shall be deemed to have accepted the amendment unless the Business Associate notifies the Covered Entity of its non-acceptance in accordance with the Notice provisions of the Contract within 30 days of the Covered Entity's notice referenced herein. Any agreed alteration of the then current Covered Entity BAA shall have no force or effect until the agreed alteration is reduced to a Contract amendment and signed by the Contractor, Agency Director, and the Agency Security and Privacy Officer.
- f. *Survival.* All obligations of the Agency and the Business Associate incurred or existing under this BAA as of the date of expiration or termination will survive the expiration or termination of this BAA.
- g. *No Third Party Beneficiaries.* There are no third party beneficiaries to this BAA between the parties. The Underlying Agreement and this BAA are intended to only benefit the parties to the BAA.
- h. *Miscellaneous.*
- i. *Regulatory References.* A reference in this BAA to a section in the HIPAA Rules means the section as it may be amended from time to time.
 - ii. *Interpretation.* Any ambiguity in this BAA shall be interpreted to permit compliance with the HIPAA Rules.
 - iii. *Applicable Law.* Except to the extent preempted by federal law, this BAA shall be governed by and construed in accordance with the same internal laws as that of the Underlying Agreement.

Attachment A to Exhibit D

COVERED ENTITIES AND CORRESPONDING INFORMATION

Name of Covered Entity	Information Security Data Breach Incident Report form URL	Address	Contact Information
Iowa Department of Human Services	http://dhs.iowa.gov/sites/default/files/DHS_Incident_Rpt_470-5134.docx	1900 Carpenter Ave, Des Moines, IA 50314	<u>Primary Contact:</u> Name: Debra Covington Phone: (515) 281-7747 Email: dcoving@dhs.state.ia.us Title: Information Security and Privacy Officer Iowa Department of Human Services
Iowa Veterans Home	https://ivh.iowa.gov/sites/default/files/documents/2017/12/data_breach.docx	Iowa Veterans Home 1301 Summit St. Marshalltown, IA 50158	<u>Primary Contact:</u> Phone: (641) 844-6352 E-mail: privacyofficer@ivh.state.ia.us

Exhibit E: State of Iowa – Special Terms and Conditions/Ancillary Agreement

1. General Services.

a. Performance. In performance of this contract, the Contractor agrees to comply with and assume responsibility for compliance by its employees, agents, or subcontractors with the following requirements:

i. All work will be performed under the supervision of the contractor or the contractor's responsible employees.

ii. The contractor and the contractor's employees, agents, or subcontractors with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.

iii. Any Federal tax returns or return information (hereafter referred to as returns or return information) made available shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone other than an officer or employee, agent, or subcontractor of the contractor is prohibited.

iv. All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.

v. No work involving returns and return information furnished under this contract will be subcontracted without prior written approval of the IRS.

vi. The contractor will maintain a list of employees, agents, or subcontractors with authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.

vii. The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.

b. Criminal/Civil Sanctions.

i. Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be



used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRCs 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

ii. Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone without an official need-to-know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution.

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

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



v. Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors must be advised of the provisions of IRCs 7431, 7213, and 7213A (see Exhibit 4, *Sanctions for Unauthorized Disclosure*, and Exhibit 5, *Civil Damages for Unauthorized Disclosure*). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See IRS Pub 1075 Section 10.) For both the initial certification and the annual certification, the contractor must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

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

2. Technology Services.

a. **Performance.** In performance of this contract, the contractor agrees to comply with and assume responsibility for compliance by its employees, agents, or subcontractors with the following requirements:

i. All work will be done under the supervision of the contractor or the contractor's employees.

ii. The contractor and the contractor's employees, agents, or subcontractors with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.

iii. Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Disclosure to anyone other than



an officer or employee, agent, or subcontractor of the contractor will be prohibited.

iv. All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.

v. The contractor certifies that the data processed during the performance of this contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.

vi. Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the agency or his or her designee. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the agency or his or her designee with a statement containing the date of destruction, description of material destroyed, and the method used.

vii. All computer systems receiving, processing, storing or transmitting FTI must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal Tax Information.

viii. No work involving Federal Tax Information furnished under this contract will be subcontracted without prior written approval of the IRS.

ix. The contractor will maintain a list of employees, agents, or subcontractors with authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office. (IRS Pub 1075 Section 10) The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.

b. Criminal/Civil Sanctions.

i. Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further



disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRCs 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

ii. Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable, or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

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



- iv. Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors must be advised of the provisions of IRCs 7431, 7213, and 7213A (see *Exhibit 4, Sanctions for Unauthorized Disclosure*, and *Exhibit 5, Civil Damages for Unauthorized Disclosure*). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See IRS Pub 1075 Section 10.) For both the initial certification and the annual certification, the contractor must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.
- c. **Inspection.** The IRS and the Agency, with 24-hour notice, shall have the right to send its inspectors into the offices and plants of the contractor to inspect facilities and operations performing any work with FTI under this contract for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. On the basis of such inspection, corrective actions may be required in cases where the contractor is found to be noncompliant with contract safeguards.