

## CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Confidential and Non-Disclosure Agreement (the "Agreement") is made this \_\_\_\_ day of March 2014, by and between \_\_\_\_\_ hereinafter referred to as "the Vendor." And the State of Florida Department of Management Services, hereinafter referred to as "the State."

The Vendor warrants and represents that it intends to submit a Reply in response to the State solicitation entitled RFP No. DMS-13/14-030-REBID - Group Vision Benefits Insurance (RFP). It will be necessary for the State to provide the Vendor with access to certain confidential information (Confidential Information) including, but not limited to, demographic and identifying information on the State's eligible employee and COBRA population and plan utilization data related to this procurement. This information includes data that is considered Protected Health Information as defined in 45 C.F.R. § 160.103, Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended. All such information provided by the State during this procurement process shall be considered Confidential Information regardless of the form, format, or media upon which or in which such information is contained or provided, regardless of whether it is oral, written, electronic, or any other form, and regardless of whether the information is marked as Confidential Information. As a condition for its receipt and further access to the Confidential Information, Vendor agrees as follows:

1. Vendor will not copy, disclose, publish, release, transfer, disseminate or use for any purpose in any form any Confidential Information received under the RFP, except in connection with the preparation of its Reply to the RFP.
2. Vendor shall be liable for any violations by any of its employees who are provided or given access to Confidential Information or any incidental access obtained by unauthorized persons while in its control.
3. Vendor shall abide by the following procedures in handling the States' Confidential Information:
  - a. Upon receipt of the data, the Vendor will password protect the Confidential Information.
  - b. Vendor's employees needing access to the State's Confidential Information will be informed that:
    - i. they are not to share the password or the State's Confidential Information with any unauthorized person;
    - ii. at the end of the solicitation process they will delete the State's Confidential Information from any laptop, desktop or any other electronic shared system under their control and destroy any paper copies of such Confidential Information; and
    - iii. they must confirm to the Vendor that they have so deleted or destroyed the Confidential Information.
  - c. Files and passwords will be provided separately to appropriate users.

- d. Vendor will maintain the list of persons granted access (Access List) to the State's Confidential Information. Employees expected to have access to the State's Confidential Information are to be listed in the chart on page 3. Vendor will update the list at the time it submits its Proposal.
4. Vendor shall destroy the Confidential Information, including any copies, remaining in its possession within the later of five (5) business days of the State's notice of an intended award in connection with this solicitation or the conclusion of any legal proceeding or protest regarding the procurement and shall provide a certification and a final Access List to the Procurement Officer as defined in the RFP that it has complied with this requirement. If the Vendor does not submit a Proposal, the Vendor shall destroy the Confidential Information including any copies by the time Proposals are due and shall provide a certification and Access List to the Procurement Officer that it has complied with this requirement on or before the due date for Proposals. Vendor acknowledges that the disclosure of the Confidential Information may cause irreparable harm to the State and agrees that the State may obtain an injunction to prevent the disclosure, copying, or other impermissible use of the Confidential Information. The State's rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and/or to seek damages for the Vendor's failure to comply with the requirements of this Agreement.
  5. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including by way of example only, attorney's fees and disbursements) that are attributable, in whole or in part to any failure by the Vendor or any employee of the Vendor to comply with the requirements of this Agreement, Vendor shall hold harmless and indemnify the State and the State of Florida from and against any such losses, damages, liabilities, expenses and/or costs.
  6. This Agreement shall be governed by the laws of the State of Florida. The Vendor consents to personal jurisdiction in Florida state court, and exclusive venue shall be Leon County, Florida.
  7. The individual signing below warrants and represents that they are fully authorized to bind the Vendor to the terms and conditions specified in this Agreement.

Vendor: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

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**VENDOR'S EMPLOYEES WHO WILL BE GIVEN ACCESS TO THE  
CONFIDENTIAL INFORMATION**

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<b>Printed Name, Address of Individual</b>	<b>Signature of Individual</b>	<b>Date</b>