**Second Amendment to the Program Integrity Services for Iowa Medicaid Contract**

This Second Amendment to Contract Number MED-19-003-A is effective upon the last signature of the parties in Section 3, between the Iowa Department of Human Services (Agency) and International Business Machines Corporation (Contractor).

**Section 1:  Amendment to Contract Language**
The Contract is amended as follows:

**Revision 1.  The Contract Declarations and Execution pages is amended by modifying the following labeled cells:**

| Agency of the State (hereafter "Agency") | |
|---|---|
| **Name/Principal Address of Agency:** <br> Iowa Department of Human Services <br> 1305 E. Walnut <br> Des Moines, IA  50319-0114 | **Agency Billing Contact Name/Address:** <br> Rachael Danley <br> 1305 E. Walnut <br> Des Moines, IA  50319 <br> Phone: (515) 256-4648 |
| **Agency Contract Manager (hereafter "Contract Manager")** <br> Rachael Danley <br> 1305 E. Walnut <br> Des Moines, IA  50319 <br> Phone: (515) 256-4648 <br> Email: rdanley@dhs.state.ia.us | **Agency Contract Owner (hereafter "Contract Owner")** <br> Julie Lovelady <br> 1305 E. Walnut <br> Des Moines, IA  50319 <br> Email: jlovela@dhs.state.ia.us |

**Revision 2.  Section 1.3.1.1.B.1 is amended by adding the following text as new subsection (g):**

    g.  Senior Financial Analyst - experienced financial analyst with prior experience responsible for managing the Agency's financial operations for the Program Integrity unit.

**Revision 3.  Section 1.3.1.1.B.4 is amended by adding the following text as new subsection (h):**

    e.  Sufficient staff to perform administrative duties to support Agency PI efforts.

**Revision 4.  Section 1.3.1.1.C.1(d) is amended to read as follows:**

    d.  Data and Security
    If this Contract involves Confidential Information, the following terms apply:

    i) Data and Security System Framework.  The Contractor shall comply with either of the following:
- Provide certification of compliance with a minimum of one of the following security frameworks, if the Contractor is storing Confidential Information electronically: NIST SP 800-53, HITRUST version 9, SOC 2, COBIT 5, CSA STAR Level 2 or greater, ISO 27001 or PCI-DSS version 3.2 prior to implementation of the system and again when the certification(s) expire, or
- Provide attestation of a passed information security risk assessment, passed network penetration scans, and passed web application scans (when

applicable) prior to implementation of the system and again annually thereafter.  For purposes of this section, "passed" means no unresolved high or critical findings.

**Revision 5.  Section 1.3.1.1.C.1(f) and all subsections thereof are deleted in their entirety.**

**Revision 6.  The following is added to Section 1.3.1.1.C as new subsection 4:**
Vendor Security Questionnaire.  If not previously provided to the Agency through a procurement process specifically related to this Contract, the Contractor shall provide a fully completed copy of the Agency's Vendor Security Questionnaire (VSQ).

**Revision 7.  The following is added to Section 1.3.1.1.C as new subsection 5:**
If using cloud services to store Agency Information, the Contractor shall comply with either of the following:
• Provide written designation of FedRAMP authorization with impact level moderate prior to implementation of the system, or
• Provide certification of compliance with a minimum of one of the following security frameworks: HITRUST version 9, SOC 2, COBIT 5, CSA STAR Level 2 or greater or PCI-DSS version 3.2 prior to implementation of the system and again when the certification(s) expire.

**Revision 8.  The following is added to Section 1.3.1.1.C as new subsection 6:**
6. Addressing Concerns.  The Contractor shall timely resolve any outstanding concerns identified by the Agency regarding the Contractor's submissions required in this section.

**Revision 9.  Section 1.3.1.1.D.1 is amended to read as follows:**
7. Software and Ownership.  The Agency and the United States Department of Health and Human Services shall have all rights in software and modifications of that software and associated documentation designed, developed, or installed with Federal financial participation as required by 45 CFR 95.617 and subject to the terms in subsection 2 through 4 below. In addition, the Agency and Federal Government  shall have a royalty free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and authorize others to use, for Federal Government purposes, all software, work product, and documentation developed using enhanced federal funding pursuant to this Contract. This clause is only intended to ensure that the Agency has all ownership rights that are required to be maintained by the Agency under 42 CFR 433 Subpart C, which includes enhancements, configurations, and customizations to COTS or proprietary software designed for and paid for by the Agency utilizing enhanced federal funding for design and development. COTS or proprietary software packages such as software that is owned and licensed for use by third parties, which are provided at established catalog or market prices and sold or leased to the general public must not be subject to the ownership provisions in paragraphs (a) and (b) of 42 CFR 495.360.

**Revision 10. Section 1.3.1.1.D.4 is amended to read as follows:**

4. Contractor and Agency agree that the software used by Contractor for the PI Database is readily commercially available software used without modification by the Contractor. However, over the course of the Contract term, if the software used by the Contractor changes to one of categories of 2(b), 2(c), or 3, above, those subsections apply.

    a. DataProbe Transition and Access. The Contractor shall provide:

        i. DataProbe transition of servers to enable Agency access;

        ii. A non-exclusive, non-assignable, royalty-free, worldwide limited right to access to and use of DataProbe Cloud Services as set forth in Attachment E;

        iii. Authorized User access as set forth in Attachment E and this Agreement; and

        iv. Three-day training on DataProbe analytics engine.

**Revision 12. Section 1.3.1.4 is amended to read as follows:**

**1.3.1.4 Turnover Phase**

Within this final phase of the Contract, the Contractor turns over operations to a new contractor or the Agency near the end of the Contract term. This phase is activated when either: the Agency enters into a contract with a new entity (such as a newly awarded contractor) and begins the process of transferring responsibility for operations to that entity; or the Agency informs the Contractor that the Contract will be ending and requests turnover activities commence.

Once the turnover phase begins, the Contractor shall:

A. Fully cooperate and collaborate with the Agency and new entity.

B. Develop and comply with a turnover plan detailing the activities and timelines necessary to transfer responsibility for operations to the Agency or new entity within 30 days of Agency request, and subject to Agency approval. The turnover plan shall include at minimum:

    1. Proposed approach to the turnover;

    2. Definition of each project activity;

    3. Sequence of activities;

    4. Identification of who is responsible for each project activity;

    5. Defined deliverables and outcomes;

    6. Timeframe in which each activity will be completed; and

    7. Identification of Agency responsibilities and expectations.

C. Provide the required turnover services. This will include meeting with the Agency and incoming vendor(s) and devising work schedules that are agreeable for both the Agency and the incoming vendor(s).

D. Systems transfer. If requested by the Agency, provide system requirements so that the Agency or new vendor may obtain the hardware/software/operating systems needed to host the database and system solution(s), as necessary. The Contractor will then transfer data to the Agency or new vendor database upon request.

E. Provide knowledge transfer to the Agency and new entity in the operation of the Program Integrity solution. Such knowledge transfer shall be completed at least one month prior to the end of the Contract. Such knowledge transfer shall include:

    1. Systems operations.

    2. Manual procedures.

    3. Statement of resource requirements required by the incoming vendor(s) to take over operations, including but not limited to:
        a. Data processing and imaging equipment
        b. System and special software
        c. Other equipment
        d. Telecommunications circuits
        e. Telephones
        f. Office space

F. Turn over all:
    1. Paper files.
    2. Paper financial records.
    3. Necessary data and reference files.
    4. Production scripts and algorithms.
    5. Production documentation including, but not limited to, user and operations manuals, system documentation in hard and soft copy needed to operate and maintain the systems, and procedures for updating computer programs and other documentation.
    6. Reports associated with the contract throughout the Operations Phase.
    7. Systems certification artifacts and checklists. These shall be saved on the DHS network, in a restricted location to be determined by the Agency.
    8. A turnover results report.

**Revision 13. Section 1.3.4.1 is amended to read as follows:**

In accordance with the payment terms outlined in this section and Contractor's completion of the Scope of Work as set forth in this Contract, the Contractor will be compensated an amount not to exceed $16,354,959.16 during the entire term of this Contract, which includes any extensions or renewals thereof. Payment will occur as follows:

**Revision 14. Section 1.3.4.2 is amended by adding the following text at the end of the clause:**

Notwithstanding the above, the Contractor may invoice a not to exceed amount of $35,996.66, for the DataProbe Transition and Access activities performed pursuant to Contract Section 1.3.1.1.D.4(a) according to the following schedule:

1. DataProbe Transition of Servers – Upon written Agency confirmation of the transition and completion of testing of DataProbe servers in compliance with Section 1.3.1.1.D.4(a), the Contractor may invoice the Agency in the amount of $29,580.
2. Authorized User Access for the Agency - The Contractor may invoice the Agency in the amount of $8,500.00 per Authorized User per year (**"Authorized User Fee"**) for DataProbe Cloud Services access provided to the Agency for DataProbe use, once access has been provided in accordance with Section 1.3.1.1.D.4(a). Authorized user fee for two users will be prorated at $708.33 per Authorized User per month for usage that is less than one year.
3. Three-day Training – Upon Agency written confirmation of completion of Agency staff training on the use of DataProbe analytics engine in

compliance with Section 1.3.1.1.D.4(a), the Contractor may invoice the Agency in the amount of $5,000.

**Revision 15.  Federal Funds.  The following federal funds information is provided**

| | |
|---|---|
| **Contract Payments include Federal Funds?**  Yes | |
| **The contractor for federal reporting purposes under this contract is a:**  Vendor | |
| **DUNS #:**  036838092 | |
| **The Name of the Pass-Through Entity:**  Iowa Department of Human Services | |
| **CFDA #:**  93.778 | **Federal Awarding Agency Name:**  Department of Health and |
| **Grant Name:**  Medical Assistance Program | Human Services/Centers for Medicare and Medicaid Services |

Revision 16.  Attachment A. Software Technical Support.

Technical Support for the Applicable Software.
For purposes of this Contract, "Technical Support" for the Applicable Software (where Contractor shall have granted to the Agency a fully paid up, non-exclusive right of access to use the object code version of such Applicable Software solely for its internal business purposes for a period not to exceed the Post Contract Transition Period) shall consist of providing Help Desk Support Services, Updates and Error Resolution Assistance.

b)      Updates
The Contractor shall promptly make available to the Agency modifications, updates, error corrections, minor releases, major releases and all related documentation for the Applicable Software that the Contractor makes available to its other users of the Applicable Software who have purchased support for the Applicable Software (the "Updates").  The Agency shall make a good faith effort to implement Updates upon receipt. The Contractor will support the Agency in maintenance of the then-current major release and the immediately prior major release of the Applicable Software for a period of six (6) months after delivery of the then-current major release to the Agency but in no event longer than the end of the Post Contract Transition Period. In addition, the Contractor shall support periodic content code updates for the two (2) most recent major releases of the Applicable Software.

Revision 17.  Attachment E.

**Section 2:  Ratification & Authorization**
Except as expressly amended and supplemented herein, the Contract shall remain in full force and effect, and the parties hereby ratify and confirm the terms and conditions thereof.  Each party to this Amendment represents and warrants to the other that it has the right, power, and authority to enter into and perform its obligations under this Amendment, and it has taken all requisite actions (corporate, statutory, or otherwise) to approve execution, delivery and performance of this Amendment, and that this Amendment constitutes a legal, valid, and binding obligation.

**Section 3:  Execution**
**IN WITNESS WHEREOF,** in consideration of the mutual covenants set forth above and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties have entered into the above Amendment and have caused their duly authorized representatives to execute this Amendment.

| Contractor, International Business Machines Corporation | | Agency, Iowa Department of Human Services | |
|---|---|---|---|
| *Craig Haseltine* | Date: 6/2/2021 | *Kelly Garcia*<br>Kelly Garcia (Jun 21, 2021 13:12 CDT) | Date:<br>Jun 21, 2021 |
| Printed Name:  Craig Haseltine | | Printed Name:  Kelly Garcia | |
| Title:  Vice President, Global Government – Health & Human Services, IBM Watson Health | | Title:  Director | |

# Attachment E. IBM DataProbe Cloud Services Agreement

**Section 1.     Incorporation.**

This IBM DataProbe Cloud Services Agreement ("**DataProbe CSA"**) is incorporated by reference into MED 19-003-A.  The Parties signatures on MED 19-003-A indicate their agreement to the terms of this DataProbe CSA.  If there is any conflict between the terms of this DataProbe CSA and MED-19-003-A, the terms of MED 19-003-A will prevail.

**Section 2.     Definitions.**

In addition, to any other terms that may be defined elsewhere in this Attachment or the MED 19-003-A, each of the following terms has the meaning assigned to it.

**"Authorized Users"** means employees, independent contractors, consultants or other third parties who are retained or hired by the Agency and for whom the Agency has paid an annual Authorized User Fee under the terms of MED 19-003-A.

**"Cloud Services"** means access to IBM DataProbe through a network.

**"Content"** means all data, software, and information that the Agency, its authorized users, or the Contractor acting under the requirements of MED 19-003-A provides, authorizes access to, or inputs to the Cloud Services.

**"IBM DataProbe"** means the general-purpose analytic database management system offered by IBM and designed to allow users without programming expertise to quickly analyze large volumes of data and typically used by health care professional to perform rules-based analysis of claims and encounter data.

**"Post Contract Transition Period"** means the time (1) beginning when the Agency enters into a contract with an entity other than the Contractor for the services identified under MED 19-003-A or notifies the Contractor that the Contract will be ending and requests that turnover activities begin and (2) ending when the turnover activities required under MED 19-003-A are complete.

**"Data Source"** means a servicer, administrator or other entity that is a source of Content.

**Section 3.     Term.**

The term of the Cloud Service will begin on the date that MED 19-003-A begins and will terminate on the date that the Post Contract Transition Period ends.

**Section 4.     Cloud Services Rights and Duties.**

**4.1**     During the term, the Contractor shall provide a non-exclusive, non-assignable, royalty free, worldwide limited right to access and use the Cloud Services solely for the Agency's internal business operations and subject to the terms of this CSA and MED 19-003-A.  The Agency may allow its Authorized Users to use the Cloud Services for this purpose.

**4.2**    The Contractor shall provide the facilities, personnel, equipment, software, and other resources necessary to provide the Cloud Services and generally available user guides and documentation to support Agency's use of the Cloud Service.

**4.3**    The Agency shall provide hardware, software and connectivity to access and use the Cloud Services, including any required Agency-specific URL addresses and associated certificates.

**4.4**    The System Requirements, including security and data provisions are laid out in MED 19-003-A, Sections 1.3.1.1.C and 1.3.1.1.D.

**4.4**    The Contractor shall provide the Software Technical Support identified in Attachment A.

**Section 5.    Payment.**

Payment for the Cloud Services is governed by the terms of MED 19-003-A.

**Section 6.    Modification or Withdrawal of Cloud Services.**

**6.1    Modification.** The Contractor may modify the Cloud Services from time to time to i) improve or clarify existing commitments; ii) maintain alignment to current adopted standards and applicable laws; or iii) provide additional features and functionality.  Such modifications will supersede prior versions.  In making such modifications, the Contractor shall not degrade the security or functionality of the Cloud Services and shall not materially reduce the level of performance or availability of the Cloud Services.

**6.2    Withdrawal.**  The Contractor may withdraw the Cloud Services if the Contractor provides twelve months' notice in advance of the withdrawal and assists the Agency in migrating to another solution.

**Section 7.    Ownership and Restrictions.**

**7.1    Content Permission.** The Agency grants the rights and permissions to Contractor, its affiliates, and their contractors, to use, provide, store, and otherwise process Content solely for the purpose of providing the Cloud Services or fulfilling the obligations of MED 19-003-A.

**7.2    Ownership.**   The Agency retains all ownership and intellectual property rights in and to its Content and its Applications.  Contractor, its affiliates, and their contractors will access and use the Content solely for the purpose of providing and managing the Cloud Services or fulfilling the obligations of MED 19-003-A.  The Contractor will treat Content as confidential and shall not disclose the Content to its employees or contractors or to the extent necessary to provide the Cloud Services.  Notwithstanding anything to the contrary, the Contractor shall comply with all state and federal law and obligations of MED 19-0003-A.  The Contractor retains all ownership and intellectual property rights to its Cloud Services.

**7.3    Agency Access Restrictions.**  Agency may access the Cloud Services to the extent of its authority under this CSA, MED 19-003-A, and any documents incorporated into those documents.  The Agency is responsible for use of Cloud Services by any user who accesses the

Cloud Services with Agency's account credentials. A Cloud Service may not be used in any jurisdiction for unlawful, obscene, offensive or fraudulent content or activity, such as advocating or causing harm, interfering with or violating the integrity or security of a network or system, evading filters, sending unsolicited, abusive or deceptive messages, viruses or harmful code, or violating third party rights. In addition, the Agency may not use the Cloud Services if failure of the Cloud Services could lead to death, bodily injury, or property or environmental damage. The Agency may not: i) reverse engineer any portion of the Cloud Services; ii) assign or resell direct access to the Cloud Services to a third party outside the Agency's enterprise; iii) combine Cloud Services with the Agency's value add to create a commercially available Agency branded solution that the Agency markets to its end user customers unless otherwise agreed.

**Section 8.     Agency Acknowledgements**

**8.1 Browser Support**

Specifically limited to Agency access to the Cloud Services via an Internet Browser and specifically excluding IBM's responsibilities under MED 19-003-A, Agency acknowledges and agrees that Contractor may, at its sole discretion, discontinue support for older versions of Internet browsers due to security and/or performance concerns. Continuing to use unsupported browsers may cause compatibility issues with the Cloud Service for which Contractor is not responsible.

**Section 9.     Agency Responsibilities**

**9.1**     Contractor's performance under this Cloud Services Agreement is dependent upon Agency's fulfillment of its obligations under this Cloud Services Agreement at no charge to Contractor unless otherwise specified by MED 19-003-A.


**9.2**     With respect to Authorized Users only and this Cloud Services Agreement only, the Contractor Data Security and Privacy Principle (DSP) found at http://www.ibm.com/cloud/datasecurity apply. The terms of MED 19-003-A, including the Business Associate Agreement, prevail over the terms of the DSP.