

STATE OF VERMONT
CONTRACT FOR SERVICES
University of Vermont and State Agricultural College

Contract # 13762

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1. Parties This is a contract for services between the State of Vermont, Agency of Human Services through its Office of Vermont Health Access (hereafter called "State"), and the University of Vermont and State Agricultural College, with a principal place of business in Burlington, Vermont (hereafter called the "Contractor"). The Contractor's form of business is a public not-for-profit institution of higher education.
2. Subject Matter The subject matter of this contract is the provision of services generally of a programmatic and clinical management nature. Detailed services to be provided by the Contractor are described in Attachment A.
3. Maximum Amount In consideration of services to be performed by the Contractor, the State agrees to pay the Contractor, a sum not to exceed \$1,200,000.00, in accordance with payment provisions described in Attachment B.
4. Contract Term The period of Contractor's performance shall begin on October 1, 2008 and end on September 30, 2010. The contract may be extended up to two additional years subject to the agreement of both parties.
5. Prior Approvals If approval by the Attorney General's Office or the Secretary of Administration is required, (under current law, bulletins, and interpretations), neither this contract nor any amendment to it is binding until it has been approved by either or both such persons:
 - Approval by the Attorney General's Office **is** required.
 - Approval by the Secretary of Administration **is** required.
 - Approval by the CIO/Commissioner DII **is not** required.
6. Amendment No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and the Contractor.
7. Cancellation This contract may be canceled by either party by giving written notice at least 90 days in advance.
8. Attachments This contract consists of 27 pages including the following attachments which are incorporated herein:
 - Attachment A – Specifications of Work to be performed
 - Attachment B – Payment Provisions
 - Attachment C – Customary State Contract Provisions
 - Attachment E – Business Associate Agreement
 - Attachment F – Customary Contract Provisions of the Agency of Human Services

The order of precedence of documents shall be as follows:

1. This document
2. Attachment C
3. Attachment A
4. Attachment B
5. Attachment E
6. Attachment F

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WE THE UNDERSIGNED AGREE TO BE BOUND BY THE PROVISIONS OF THIS CONTRACT:

By the STATE OF VERMONT

By the CONTRACTOR

Date: Oct 10 2008

Date: 10/9/08

Signature: Cynthia D. LaWare

Signature: Ruth Farrell

Name: Cynthia D. LaWare
Title: Secretary
VT Agency of Human Services

Name: Ruth Farrell
Title: Associate Vice President
Office of Sponsored Programs
University of Vermont

Date: 10-10-08

Date: 12/2/08

Signature: [Signature]

Signature: John M. Hughes

Name: Joshua Slen
Title: Director
Office of Vermont Health Access

Name: John M. Hughes
Title: Senior Vice President & Provost
University of Vermont

**ATTACHMENT A
SPECIFICATIONS OF WORK TO BE PERFORMED**

I. CONTRACTOR DUTIES

The contractor shall provide the following

A. OVHA Medical Director

1. Responsibilities

UVM will recruit, hire, and employ a qualified physician subject to the approval of the Office of the Vermont Health Access (OVHA) to serve as OVHA's Medical Director. The Medical Director for OVHA acts as the clinical manager for the publicly funded health insurances in Vermont and is administrative manager for all clinical activities within OVHA including prior authorizations, grievance and appeals reviews, care management and other activities as required by Medicaid or assigned by the Director of OVHA. OVHA is the public managed care organization (MCO) for the State of Vermont's Medicaid program and includes operations in every department of the Agency of Human Services. As such the Medical Director shall:

- a. Provide medical leadership for accountability, program development, quality improvement, and utilization management in the implementation of state-of-the-art medical practices in the Vermont public health service system.
- b. Participate, with support from the Associate Medical Director and other OVHA staff, in policy review and development, planning, and implementation, including the development of methods to achieve ongoing improvement in MCO operations and programs.
- c. Consult with and advise, with support from the Associate Medical Director, MCO staff and operations across AHS to achieve ongoing improvement in the integration of behavioral and physical health.
- d. Assist, with support from OVHA and/or other Agency of Human Service staff, in the identification of cost-effective alternatives to traditional Medicaid approaches.
- e. Provide medical leadership, develop standards, with assistance from OVHA staff, and provide oversight in critical areas for the MCO including but not limited to:
 - i. Identifying best practices in prevention, treatment of multiple co-morbid conditions, and chronic care management
 - ii. Acting as the OVHA medical liaison with other departments of the AHS and their Medical Directors
 - iii. Providing clinical leadership in the development of an integrated system of care that includes MCO operations, as well as community providers throughout the State.
- f. Assure the coordination of clinical activities at OVHA in a manner that is consistent with applicable state and federal law, licensing requirements, and accreditation standards.
- g. Oversee and ensure the review of any adverse findings by regulatory bodies or accreditation entities and work to develop and implement corrective action plans to address any such adverse findings.

- h. Participate in or assure that appropriate OVHA staff is assigned to various OVHA or AHS committees such as utilization review, quality improvement, pharmacy and therapeutics review, and/or joint research projects, as requested.
- i. Identify areas of research in public sector healthcare programs and participate as needed and agreed upon by both parties.
- j. Assure the completion on a timely basis of all necessary Medicaid documentation as required by state and federal standards.
- k. Participate in and support fair hearings, M108 hearings, grievance and other administrative or judicial matters relative to OVHA's clinical operations.
- l. Provide legislative testimony or supporting materials as requested by the AHS.

2. Conditions of Employment

- a. The Medical Director will serve full time as defined for University faculty with full time appointment.
- b. When serving as the Medical Director, that person will work on behalf of and under the direction and supervision of OVHA. The Medical Director will arrange her/his work schedule, vacation days, and paid and unpaid holidays to coordinate with the daily business hours and calendar of OVHA.
- c. For the services of the Medical Director, OVHA will pay those costs set forth in Attachment B.
- d. UVM will obtain OVHA's agreement before the Medical Director is replaced by any other individual.
- e. The Medical Director will be considered a full-time employee of UVM for purposes of salaries, benefits, and all economic terms and conditions of employment. She/he shall remain on the UVM payroll and be entitled to participate in the salary and benefit programs of UVM that pertain to retirement, health insurance, dental insurance, disability insurance, and tuition remission.
- f. The Medical Director will receive all compensation from UVM and will receive no additional compensation from OVHA.
- g. UVM will pay all salary and benefits to the Medical Director and all related expenses to third parties, including payroll related taxes and FICA. UVM will withhold income and other payroll taxes and deductions as appropriate.
- h. The Medical Director will be jointly appointed as a member of the faculty in a University department appropriate to his/her discipline and expertise and in the Center for Clinical and Translational Science (the Center). The Center's Director, or designee, will conduct performance evaluations in accordance with UVM policies or as otherwise agreed by OVHA. OVHA's Director will participate in the evaluation process, including meeting with the Medical Director and consulting with the Center's Director. OVHA's Director will advise the Center's Director of any deficiencies in performance and related corrective actions taken as a result of the Medical Director's service at OVHA.
- i. If OVHA is dissatisfied with the performance of the Medical Director, it may take reasonable steps in consultation with UVM to notify the Medical Director of its concerns and work with that employee to correct the problem. If OVHA remains dissatisfied, OVHA and UVM will work together to arrange for the recruitment and appointment of a replacement acceptable to OVHA,

with all agreed upon expenses to be borne by OVHA. UVM retains the exclusive right to discipline or terminate the UVM employment of the Medical Director in accordance with UVM policies.

- j. OVHA will advise the Medical Director of all its organizational rules, regulations, policies, standards of conduct, and safety procedures and the Medical Director will conform accordingly, with respect both to his/her own performance and to any responsibilities she/he may have at OVHA.
- k. The physician furnished by Contractor must:
 - i. hold unrestricted licenses to practice medicine in the State of Vermont,
 - ii. be selected by the Contractor and approved by the Director of OVHA and the Secretary of the Agency of Human Services, and
 - iii. serve in a full-time capacity as defined for University faculty with full-time appointments
- l. The Director of OVHA shall be entitled to interview all final candidates and, with the Secretary of the Agency of Human Services, shall have the ultimate decision whether to accept, reject, or retain any candidate. The Contractor shall remove the Medical Director from his or her assignment at OVHA as specified in the removal and termination provisions at III. 1. of this contract.

3. Gaps in Service Delivery

Either party will notify the other if a gap in Medical Director services is anticipated or occurs. The contractor will timely meet with OVHA to determine the type and extent of services that will be provided during the anticipated or actual absence. The obligation to notify and meet OVHA will be triggered by the Medical Director's resignation or by the Medical Director's absence of more than three consecutive weeks.

4. Medical Records

The Medical Director must (1) maintain and update clinical documentation consistent with the State's records policies and procedures and relevant state and federal law including Medicaid requirements as well as the documentation standards in place at OVHA; (2) maintain records related to the clinical program only in the OVHA office; and (3) prepare any compliance reports or taking any other action necessary to comply with HIPAA and its implementing regulations.

5. State and Federal Programs

The Medical Director shall cooperate with the State's efforts to comply with applicable State and federal program requirements related to medical care (e.g., Medicaid and Medicare). If the Medical Director has a question regarding the applicability of a State or federal program requirement, the Medical Director shall inform the State of the question and the State and the Contractor, at the State's direction, will pursue resolution as necessary with the appropriate agency.

B. Contract Liaison

The contractor will assign one liaison at the University for the State to contact to ensure the assignment of necessary personnel and resources and to coordinate and manage the activities related to the implementation and management of this contract.

C. Consultation and Technical Assistance

Consultation and Technical Assistance provided under this section will be defined in terms of individual projects. The contractor will provide qualified personnel matched to the specific requirements of each approved project.

1. Initiation of Projects

- a. The State may initiate the process leading to a project assignment by requesting a proposal from the Contractor. The request will be prepared by the State and will include the following:
 - i. Contact Individual
 - ii. Type of Activity (e.g., Applied Research, Basic Research, Technical Assistance, Training)
 - iii. Project Goal(s)
 - iv. Brief Description of Project
 - v. Project Deliverable(s)
 - vi. Estimated Project Duration/Phasing
 - vii. Description of expected timeline of Project
- b. The Contractor may also initiate the process leading to a project assignment by submitting unsolicited proposals. Unsolicited proposals and proposals prepared by the Contractor in response to the State's requests shall include the following:
 - i. Principal investigator
 - ii. Project title
 - iii. A detailed work plan, including project description, specific activities and deliverables/products.
 - iv. Time estimate required to complete the Project and Project completion date.
 - v. The point of contact responsible for the project at OVHA and UVM,
 - vi. The identification of where the work will be performed,
 - vii. A list of university personnel who will be working on the project and their qualifications.
 - viii. Detailed budget including indirect cost rate (in accordance with the approved UVM DCA rate), stating a maximum cost to complete the project

2. Review and Finalization of Projects

Proposals shall be presented to and reviewed by the State. After review by the State, and after incorporation of any modifications following negotiations necessary between the parties, the Contractor will finalize the project assignment document. The finalized document will be submitted to the State for final approval and then will be signed by both the Contractor and the State, indicating payment provisions, ownership of data and any applicable data use agreement, acceptance of the project specifics, before any work can begin.

Changes to the project assignment shall be accomplished by written modification to the project assignment as agreed to by both parties.

3. Project Deliverables

At the conclusion of a project assignment, the final deliverables/products prepared in accordance with what was agreed upon in the executed Project Assignment document, will be submitted to the State. Acceptance of the deliverables/products by the State shall represent the Contractor's fulfillment of the project assignment. The State will have sixty days to acknowledge the final deliverables/products or to reject it. Rejection of the final deliverable regarding research projects will not be based on the failure to achieve particular results.

4. Work product ownership and data use

Notwithstanding the provisions in Attachment F, paragraphs 10 and 12, the parties agree to discuss in the context of each project assignment the ownership and use of the data, research, and other material (to be referred to as "data") collected or produced in connection with the contract. Before the approval of a consultation or technical assistance project, the parties will agree on how the Contractor will use or disclose the data and whether the Contractor will be permitted to retain the data for use at a later date or for other purposes. The parties acknowledge the principles of academic freedom, the Contractor's general obligation to publish the results of its research, and the need to adhere to state and federal laws and maintain the confidentiality of individually identifiable information.

Areas of consultation and technical assistance may include, but not be limited to:

- a. Consultation and analysis of health care financing and insurance administration, management operations, and service delivery to produce relevant, research-based information to inform policy, financing and programmatic development for the MCO related functions of OVHA and the AHS departments that comprise the MCO's healthcare delivery and monitoring system. This may be accomplished by recommending and assessing the future impact of potential programmatic changes, measuring program performance, and evaluating policy changes designed to maximize the cost-effectiveness of the services, the delivery network, and/or central office operations of the MCO and member departments. Examples include but are not limited to:
 - i. The analysis of business improvement opportunities, including assessment of current operations with options and recommendations for programmatic improvement to maximize efficiency and reduce redundancy. This includes those identified by research and through the assessment of national models. Examples include the potential for assessing the effectiveness of approaches in other states and with other private and public insurers and making recommendations based on best practices. In considering these practices, attention must be given to all aspects of their operations including the subcontracting of certain functions; e.g., claims processing, clinical oversight and management, benefit management, disease management, case management, financial operations, etc. The goal would be to identify, test, and evaluate opportunities for MCO operations.
 - ii. The identification of opportunities for collaborative activities with other insurers and other states. An example would include pharmacy purchasing pools similar to Vermont's Medicaid supplemental rebate pool. The goal would be to gain greater efficiencies in program operations and/or service delivery and explore financing through collaboration.

- iii. Consultation on medically appropriate service delivery options that are concurrently the most cost effective. An example would include Vermont's current approach to selecting preferred diabetic supply product lines.
 - iv. Engaging local community practitioners to solicit ideas for program improvement, including innovation, ideas for reducing duplication and eliminating redundancies, and researching areas for improvements in cost-effective service delivery. Practitioners may include but not be limited to physicians, designated agencies, area health education centers, hospitals, etc. An example would be the opportunities for promotion of appropriate drug use in collaboration with regional Area Health Education Centers.
- b. Technical assistance and support for research on service delivery and program and service financing. Examples of this include but are not limited to:
- i. The compilation and analysis of data from the State-provided business datasets including but not limited to:
 - reference data (claims identifiers including but not limited to procedure/revenue/national drug codes),
 - provider identifiers including but not limited to Vermont Medicaid/National Provider Identifier (NPI)/Drug Enforcement Agency (DEA) number/ National Association of Boards of Pharmacy (NABP)/tax identification numbers,
 - beneficiary identifiers including but not limited to Medicaid/Medicare identification numbers/other insurance identifiers),
 - paid and denied submitted medical claims information, and
 - claims and administrative payment information.
 - ii. The commitment of necessary staff capable of compiling and manipulating large and varied datasets to perform complex utilization tracking; utilization, and financial trending; and other administrative data exercises.
 - iii. Research, analysis, and interpretation of data with results and appropriate recommendations presented to the State and its designees.
- c. Consultation, assistance, and support in clinical program design, development, implementation, and evaluation. Examples of this include but are not limited to:
- i. Consultation and assistance in identifying and assessing new developments and emerging trends in program management and clinical practices and research that would have an impact on program and medical policy and/or costs,
 - ii. Consultation and assistance in reviewing procedural and drug formulary claims coding and reimbursement,
 - iii. Consultation and assistance in reviewing and determining requests for covered and uncovered medical services,
 - iv. Policy recommendations and administrative planning strategies to enhance the operating efficiency of Medicaid and related healthcare initiatives across the state, and
 - v. Consultation and assistance with assuring effective and efficient utilization of facilities and services.
- d. Assessment and Prioritization: To provide expertise to the State, Contractor will engage in a 3-6 month process to assess and learn the processes and needs at OVHA and AHS and identify those

programs and areas that could benefit from Contractor resources. In consultation with AHS leaders, this may include:

- i. Analysis of business improvement opportunities, including assessment of current operations with options and recommendations for programmatic improvement to maximize efficiency and reduce redundancy, including those identified by research and through the assessment of national models.
- ii. Assess medically appropriate, cost-effective, service delivery options
- iii. Identify opportunities to engage local community medical practitioners to solicit ideas for program improvement, including innovation and cost effective service delivery.
- iv. Identify new developments and emerging trends in clinical practices and research that would have an impact on medical policy and/or costs.

Final product would include a summary report that includes national resources and assessment of opportunities under this agreement, recommendations for the structure and processes and progress on hiring and training Contractor personnel.

II. STATE DUTIES

The State shall operate a Medicaid program that is in compliance with applicable State and federal requirements.

The State retains responsibility for maintaining and managing the records of OVHA and for responding to public records requests pertaining to such records.

The State will provide administrative support to the Medical Director and supply all computing equipment to be used by the Medical Director; this equipment must be returned to the State at the conclusion of the contract or termination of the Medical Director position.

The State will employ other OVHA staff who will assist the Medical Director in the performance of his or her duties.

III. OTHER

A. Removal of Personnel from Contract

The Director of OVHA with the Secretary shall have authority to request the immediate removal from the contract of any Personnel for cause or non-cause, including, but not limited to: negligent or willful misconduct that is injurious to beneficiaries, , conviction of a felony, or any material breach of any part of this contract, or in the case of a Physician , the revocation, restriction, or suspension of the physician's license to practice medicine in Vermont or in any other jurisdiction in which the physician is so licensed for any period of time. Upon removal of a person for cause, and with respect to that person, the State shall have no further payment obligation to the Contractor.

If the State is dissatisfied with the performance of consultation and technical assistance personnel working under this agreement, it may take reasonable steps in consultation with Contractor to notify the personnel of its concerns and work with that employee to correct the problem. If the State remains dissatisfied, the State and Contractor will work together to arrange for a reassignment. Contractor retains the exclusive right to discipline or terminate Contractor employment in accordance with their policies.

B. Employment Clauses

Contractor shall not include any clause in its agreements with UVM Personnel that would prevent such Personnel from accepting employment with the State, or entering into a contractual arrangement with the State or a contractor of the State following the employee's termination of his or her relationship with the Contractor or termination of this Contract.

C. Location of Personnel

Staff supporting the State may be at times asked to work in AHS administrative offices depending on the nature and requirements of the work. At a minimum, staff must be available for meetings in AHS office locations.

D. Security and Electronic Data

Regarding the Contractor's Consultation and Technical Assistance activities, as described in Section I. C., for work using OVHA-provided PHI with identifiers, the Contractor will adhere to the National Institute of Standards and Technology (NIST) Special Publication 800-53 rev 2 recommended security controls, moderate impact baseline (<http://esrc.nist.gov/publications/nistpubs/800-53-Rev2/sp800-53-rev2-annex2.pdf> with the exception of CA-6 Security Accreditation) or equivalent security framework. Due the extremely sensitive nature of the data, UVM will develop data security standard operating procedures to be reviewed annually with all staff and faculty engaged in this work.

E. Quarterly Status Meetings

The State and the Contractor will participate in quarterly status meetings to assess the work and ensure compliance with the terms of this agreement. Meetings will include, but not be limited to: the Director of OVHA, the Secretary of the AHS and/or designee, the contract liaison, Medical Director and Individual Project Leads as needed.

The Contractor will submit quarterly status reports beginning Jan 31, 2009, and every 3 months thereafter. The status report will report on all active projects' progress, using a standardized template that includes notation of the status of each activity and deliverable/product as either complete, in-progress, or modification requested. Reports will be transmitted to the OVHA contract manager or other designee. The State will have thirty days to respond with approval of the status report.

F. Actions against Contractor Personnel

The Secretary and the Director of OVHA shall be immediately notified if any personnel working under this contract have a license revoked, suspended or restricted by any state; or the provider loses board certification or eligibility status.

G. Institutional Review Board Approval

Research may include designs for which informed consent must be obtained by participants. Any such proposal must be approved by the Director of OVHA, if applicable, by Contractor's institutional review board, and, if applicable, by the Agency of Human Service's institutional review board.

IV. POINT OF CONTACT

State of Vermont State Agency of Human Services
Joshua Slen, Director
Office of Vermont Health Access
312 Hurricane Lane, Suite 201
Williston, VT 05495
Tel: 802-879-5952

UVM, Technical Lead
Judith Shaw, Research Associate Professor
University of Vermont
Department of Pediatrics
St. Joseph Pavilion, Room 720
Burlington, VT 05405
Tel: 802-656-8319

UVM Administrative Lead
Ruth Farrell, Associate Vice President
Office of Sponsored Programs
University of Vermont
Waterman Bldg, Room 340
Burlington, VT 05405

**ATTACHMENT B
PAYMENT PROVISIONS**

The maximum dollar amount payable under this agreement is not intended as any form of a guaranteed amount. The Contractor will be paid for products or services specified in Attachment A, or services actually performed, up to the maximum allowable amount specified in this agreement. The payment schedule for delivered products, or rates for services performed, and any additional reimbursements, are included in this attachment. The following provisions specifying payments are:

I. Medical Director

Cost for the OVHA Medical Director will not exceed \$282,000 per year. Costs will include, salary, fringe, direct personnel (expense & in state travel), indirect. Out-of-State travel expenses for the Medical Director must be approved in advance of the travel by the Director of OVHA; the Contractor will be reimbursed for mileage, food, and lodging expenses at the rates established by the Contractor

The State will pay the Contractor \$23,500 per month for the services provided in Attachment A Section A. Payment by OVHA is conditioned on receipt and approval of a statement of the services provided by the Medical Director in the previous month. The State may prorate this monthly amount for any month the Contractor does not provide the 85% of the level of service specified on page 5 Attachment A Section A 2 item k (iii).

II. Consultation and Technical Assistance

A. Project One:

Pursuant to Attachment A C4, Start-up assessment and prioritization of consultation and TA activities. Costs for this project will not exceed \$75,000 and will be paid in equal monthly installments for months one to six of the contract.

B. All subsequent projects:

Each individual project as defined in Attachment A, Section C shall require a separate budget and prior approved payment provisions for additional funds needed to carry out the project. All budget and specific payment provisions must be approved prior to the start of work by the Director of OVHA and by the Secretary of the AHS based on the specific project. The budget will include direct and indirect costs as required for the project.

Payment provisions for individual projects may be either on a fixed-price per deliverable or cost reimbursement basis as mutually agreed.

The State will make payments to the Contractor upon receipt of monthly signed bills/invoices to the State in accordance with the budget line items specified in the budgets for the individual projects as defined in the Detailed Work Plans described in Attachment A.

In all cases, should the parties agree to terminate the Contract, in whole or in part, prior to its completion, the State shall reimburse the Contractor for all approved unreimbursed expenses and non-cancellable encumbrances reasonably or necessarily made prior to the effective date of termination, such reimbursement, in combination with prior payments, not to exceed the total specified for the Contract or project. Conversely, Contractor shall refund any amount paid by State

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in excess of all expenses and non-cancellable encumbrances reasonably or necessarily made prior to the effective date of termination. In the event of early termination, Contractor shall provide State with copies of work in progress under the agreement. Upon notice of termination contractor will stop all work unless otherwise directed by the Director of OVHA.

The State will not pay invoices if not received within six months of the delivery of services or contract completion.

The Contractor will submit a signed and dated bill/invoice for services rendered under this contract to:

Betsy Forrest, Health Care Reform Director
Office of Vermont Health Access
312 Hurricane Lane, Suite 201
Williston, VT 05495

The State will remit all payments to:

Grant and Contract Administrative Services
223 Waterman Building
University of Vermont
Burlington, VT 05405

ATTACHMENT C
CUSTOMARY STATE CONTRACT PROVISIONS

1. **Entire Agreement.** This contract represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.
2. **Applicable Law.** This contract will be governed by the laws of the State of Vermont.
3. **Appropriations.** If this contract extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this contract, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriations authority.
4. **No Employee Benefits for Contractors.** The Contractor understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers' compensation or other benefits or services available to State employees, nor will the State withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the contract. The Contractor understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Contractor, and information as to contract income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.
5. **Independence, Liability.** The Contractor will act in an independent capacity and not as officers or employees of the State. The Contractor shall defend the State and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the Contractor or of any agent of the Contractor. The State shall notify the Contractor in the event of any such claim or suit, and the Contractor shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The Contractor shall notify its insurance company and the State within 10 days of receiving any claim for damages, notice of claims, pre-claims, or service of judgments or claims, for any act or omissions in the performance of this contract.

After a final judgment or settlement the Contractor may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Contractor shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Contractor.

The Contractor shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Contractor.

6. **Insurance.** Before commencing work on this contract the Contractor must provide certificates of insurance to show that the following minimum coverage is in effect. The Contractor must notify the State no more than 10 days after receiving cancellation notice of any required insurance policy. It is the responsibility of the Contractor to maintain current certificates of insurance on file

with the State through the term of the contract. Failure to maintain the required insurance shall constitute a material breach of this contract.

Workers' Compensation: With respect to all operations performed, the Contractor shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.

General Liability and Property Damage: With respect to all operations performed under the contract, the Contractor shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations
Products and Completed Operations
Personal Injury Liability
Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

\$1,000,000 Per Occurrence
\$1,000,000 General Aggregate
\$1,000,000 Products/Completed Operations Aggregate
\$ 50,000 Fire/Legal Liability

Automotive Liability: The Contractor shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the contract. Limits of coverage shall not be less than: \$1,000,000 combined single limit.

Professional Liability: Before commencing work on this contract and throughout the term of this contract, the Contractor shall procure and maintain professional liability insurance for any and all services performed under this contract, with minimum coverage of **\$1,000,000.00** per occurrence, and **\$1,000,000.00** aggregate.

No warranty is made that the coverage and limits listed herein are adequate to cover and protect the interests of the Contractor for the Contractor's operations. These are solely minimums that have been established to protect the interests of the State.

Contractor shall name the State of Vermont and its officers and employees as additional insured for liability arising out of this contract.

7. **Reliance by the State on Representations.** All payments by the State under this contract will be made in reliance upon the accuracy of all prior representations by the Contractor, including but not limited to bills, invoices, progress reports and other proofs of work.
8. **Records Available for Audit.** The Contractor will maintain all books, documents, payroll, papers, accounting records and other evidence pertaining to costs incurred under this agreement and make them available at reasonable times during the period of the contract and for three years thereafter for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three year period, the records

shall be retained until all litigation, claims or audit findings involving the records have been resolved. The State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this contract.

9. **Fair Employment Practices and Americans with Disabilities Act.** Contractor agrees to comply with the requirement of Title 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Contractor shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Contractor under this contract. Contractor further agrees to include this provision in all subcontracts.
10. **Set Off.** The State may set off any sums which the Contractor owes the State against any sums due the Contractor under this contract; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.
11. **Taxes Due to the State.**
 - a. Contractor understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
 - b. Contractor certifies under the pains and penalties of perjury that, as of the date the contract is signed, the Contractor is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
 - c. Contractor understands that final payment under this contract may be withheld if the Commissioner of Taxes determines that the Contractor is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
 - d. Contractor also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Contractor has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Contractor has no further legal recourse to contest the amounts due.
12. **Child Support.** Applicable if the Contractor is a natural person, not a corporation or partnership.) Contractor states that, as of the date the contract is signed, he/she:
 - a. is not under any obligation to pay child support; or
 - b. is under such an obligation and is in good standing with respect to that obligation; or
 - c. has agreed to a payment plan with the Vermont Office of Child Support and is in full compliance with that plan.

Contractor makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Contractor is a resident of Vermont, Contractor makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

13. **Subcontractors.** Contractor shall not assign or subcontract the performance of this agreement or any portion thereof to any other contractor without the prior written approval of the State. Contractor also agrees to include in all subcontract agreements a tax certification in accordance with paragraph 11 above.

Notwithstanding the foregoing, the State agrees that the Contractor may assign this contract, including all of the Contractor's rights and obligations hereunder, to any successor in interest to the Contractor arising out of the sale of or reorganization of the Contractor.

14. **No Gifts or Gratuities.** Contractor shall not give title or possession of any thing of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this contract.
15. **Copies.** All written reports prepared under this contract will be printed using both sides of the paper.
16. **Certification Regarding Debarment.** Contractor certifies under pains and penalties of perjury that, as of the date that this contract is signed, neither Contractor nor Contractor's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs or programs supported in whole or in part by federal funds.

**ATTACHMENT E
BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (“Agreement”) is entered into by and between the **State of Vermont Agency of Human Services operating by and through its Office of Vermont Health Access** (“Covered Entity”) and the University of Vermont and State College of Agriculture (“Business Associate”), as of October 1, 2008 (“Effective Date”).

Covered Entity and Business Associate enter into this Agreement to comply with standards promulgated under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) including the Standards for the Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164 (“Privacy Rule”) and the Security Standards at 45 CFR Parts 160 and 164 (“Security Rule”).

The parties agree as follows:

1. Definitions. All capitalized terms in this Agreement have the meanings identified in this Agreement, 45 CFR Part 160, or 45 CFR Part 164.

The term “Services” includes all work performed by the Business Associate for or on behalf of Covered Entity that requires the use and/or disclosure of protected health information to perform a business associate function described in 45 CFR 160.103 under the definition of Business Associate.

The term “Individual” includes a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g). All references to “PHI” mean Protected Health Information. All references to “Electronic PHI” mean Electronic Protected Health Information.

2. Permitted and Required Uses/Disclosures of PHI.
 - 2.1 Except as limited in this Agreement, Business Associate may use or disclose PHI to perform Services provided that any use or disclosure would not violate the minimum necessary policies and procedures of Covered Entity. Business Associate shall not use or disclose PHI in any manner that would constitute a violation of the Privacy Rule if used or disclosed by Covered Entity in that manner. Business Associate may not use or disclose PHI other than as permitted or required by this Agreement or as Required by Law.
 - 2.2 Business Associate may make PHI available to its employees who need access to perform Services provided that Business Associate makes such employees aware of the use and disclosure restrictions in this Agreement and binds them to comply with such restrictions. Business Associate may only disclose PHI for the purposes authorized by this Agreement: (a) to its agents (including subcontractors) in accordance with Sections 6 and 14 or (b) as otherwise permitted by Section 3.
3. Business Activities. Business Associate may use PHI received in its capacity as a “Business Associate” to Covered Entity if necessary for Business Associate’s proper management and administration or to carry out its legal responsibilities. Business Associate may disclose PHI received in its capacity as “Business Associate” to Covered Entity for Business Associate’s proper management and administration or to carry out its legal responsibilities if a disclosure is Required

by Law or if (a) Business Associate obtains reasonable written assurances via a written contract from the person to whom the information is to be disclosed that the PHI shall remain confidential and be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person and (b) the person promptly notifies Business Associate (who in turn will promptly notify Covered Entity) in writing of any instances of which it is aware in which the confidentiality of the PHI has been breached. Uses and disclosures of PHI for the purposes identified in this Section 3 must be of the minimum amount of PHI necessary to accomplish such purposes.

4. Safeguards. Business Associate shall implement and use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for by this Agreement. Business Associate shall identify in writing upon request from Covered Entity all of the safeguards that it uses to prevent impermissible uses or disclosures of PHI.
5. Reporting. Business Associate shall report in writing to Covered Entity any use or disclosure of PHI in violation of this Agreement by Business Associate or its agents including its subcontractors. Business Associate shall provide this written report promptly after it becomes aware of such use or disclosure. Business Associate shall provide Covered Entity with the information necessary for Covered Entity to investigate the impermissible use or disclosure. Consistent with 45 CFR 164.502(j)(1) Business Associate may use PHI to report violations of law to federal and state authorities.
6. Agreements by Third Parties. Business Associate shall ensure that any agent (including a subcontractor) to whom it provides PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity agrees in a written contract to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such PHI. For example, the written contract must include those restrictions and conditions set forth in Section 12. Business Associate must enter into the written contract before any use or disclosure of PHI by such agent. The written contract must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of the contract concerning the use or disclosure of PHI. Business Associate shall provide a copy of the written contract to Covered Entity upon request. Business Associate may not make any disclosure of PHI to any agent without the prior written consent of Covered Entity.
7. Access to PHI. Business Associate shall provide access to PHI in a Designated Record Set to Covered Entity or as directed by Covered Entity to an Individual to meet the requirements under 45 CFR 164.524. Business Associate shall provide such access in the time and manner reasonably designated by Covered Entity. Business Associate shall promptly forward to Covered Entity for handling any request for access to PHI that Business Associate directly receives from an Individual.
8. Amendment of PHI. Business Associate shall make any amendments to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR 164.526, whether at the request of Covered Entity or an Individual. Business Associate shall make such amendments in the time and manner reasonably designated by Covered Entity. Business Associate shall promptly forward to Covered Entity for handling any request for amendment to PHI that Business Associate directly receives from an Individual.

9. Accounting of Disclosures. Business Associate shall document disclosures of PHI and all information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528. Business Associate shall provide such information to Covered Entity or as directed by Covered Entity to an Individual, to permit Covered Entity to respond to an accounting request. Business Associate shall provide such information in the time and manner reasonably designated by Covered Entity. Business Associate shall promptly forward to Covered Entity for handling any accounting request that Business Associate directly receives from an Individual.
10. Books and Records. Subject to the attorney-client and other applicable legal privileges, Business Associate shall make its internal practices, books, and records (including policies and procedures and PHI) relating to the use and disclosure of PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity available to the Secretary in the time and manner designated by the Secretary. Business Associate shall make the same information available to Covered Entity upon Covered Entity's request in the time and manner reasonably designated by Covered Entity so that Covered Entity may determine whether Business Associate is in compliance with this Agreement.
11. Termination.
 - 11.1 This Agreement commences on the Effective Date and shall remain in effect until terminated by Covered Entity or until all of the PHI provided by Covered Entity to Business Associate or created or received by Business Associate on behalf of Covered Entity is destroyed or returned to Covered Entity subject to Section 15.11.
 - 11.2 If Business Associate breaches any material term of this Agreement, Covered Entity may either: (a) provide an opportunity for Business Associate to cure the breach and Covered Entity may terminate this Contract without liability or penalty if Business Associate does not cure the breach within the time specified by Covered Entity; or (b) immediately terminate this Contract without liability or penalty if Covered Entity believes that cure is not reasonably possible; or (c) if neither termination nor cure are feasible, Covered Entity shall report the breach to the Secretary. Covered Entity has the right to seek to cure any breach by Business Associate and this right, regardless of whether Covered Entity cures such breach, does not lessen any right or remedy available to Covered Entity at law, in equity, or under this Contract, nor does it lessen Business Associate's responsibility for such breach or its duty to cure such breach.
12. Return/Destruction of PHI.
 - 12.1 Business Associate in connection with the expiration or termination of this Contract shall return or destroy all PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity pursuant to this Contract that Business Associate still maintains in any form or medium (including electronic) within thirty (30) days after such expiration or termination. Business Associate shall not retain any copies of the PHI. Business Associate shall certify in writing for Covered Entity (1) when all PHI has been

returned or destroyed and (2) that Business Associate does not continue to maintain any PHI. Business Associate is to provide this certification during this thirty (30) day period.

- 12.2 Business Associate shall provide to Covered Entity notification of any conditions that Business Associate believes make the return or destruction of PHI infeasible. If Covered Entity agrees that return or destruction is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible for so long as Business Associate maintains such PHI.
13. Notice/Training. Business Associate understands that: (a) there may be civil or criminal penalties for misuse or misappropriation of PHI and (b) violations of this Agreement may result in notification by Covered Entity to law enforcement officials and regulatory, accreditation, and licensure organizations. If requested by Covered Entity, Business Associate shall participate in information security awareness training regarding the use, confidentiality, and security of PHI.
14. Security Rule Obligations. The following provisions of this Section 14 apply to the extent that Business Associate creates, receives, maintains or transmits Electronic PHI on behalf of Covered Entity.
- 14.1 Business Associate shall implement and use administrative, physical, and technical safeguards that reasonably and appropriately protect the Confidentiality, Integrity and Availability of the Electronic PHI that it creates, receives, maintains or transmits on behalf of Covered Entity. Business Associate shall identify in writing upon request from Covered Entity all of the safeguards that it uses to protect such Electronic PHI.
- 14.2 Business Associate shall ensure that any agent (including a subcontractor) to whom it provides Electronic PHI agrees in a written contract to implement and use administrative, physical, and technical safeguards that reasonably and appropriately protect the Confidentiality, Integrity and Availability of the Electronic PHI. Business Associate must enter into this written contract before any use or disclosure of Electronic PHI by such agent. The written contract must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of the contract concerning the use or disclosure of Electronic PHI. Business Associate shall provide a copy of the written contract to Covered Entity upon request. Business Associate may not make any disclosure of Electronic PHI to any agent without the prior written consent of Covered Entity.
- 14.3 Business Associate shall report in writing to Covered Entity any Security Incident pertaining to such Electronic PHI (whether involving Business Associate or an agent, including a subcontractor). Business Associate shall provide this written report promptly after it becomes aware of any such Security Incident. Business Associate shall provide Covered Entity with the information necessary for Covered Entity to investigate any such Security Incident.
- 14.4 Business Associate shall comply with any reasonable policies and procedures Covered Entity implements to obtain compliance under the Security Rule.

15. Miscellaneous.

- 15.1 In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the Contract, the terms of this Agreement shall govern with respect to its subject matter. Otherwise the terms of the Contract continue in effect.
- 15.2 Any reference to “promptly” in this Agreement shall mean no more than seven (7) business days after the circumstance or event at issue has transpired. A reference in this Agreement to a section in the Privacy Rule or Security Rule means the section as in effect or as amended or renumbered.
- 15.3 Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to it of a use or disclosure of PHI in violation of any provision of this Agreement.
- 15.4 Business Associate shall cooperate with Covered Entity to amend this Agreement from time to time as is necessary for Covered Entity to comply with the Privacy Rule, the Security Rule, or any other standards promulgated under HIPAA.
- 15.5 Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule, Security Rule, or any other standards promulgated under HIPAA.
- 15.6 In addition to applicable Vermont law, the parties shall rely on applicable federal law (e.g., HIPAA, the Privacy Rule and Security Rule) in construing the meaning and effect of this Agreement.
- 15.7 This Agreement may be amended or modified, and any right under this Agreement may be waived, only by a writing signed by an authorized representative of each party.
- 15.8 Nothing express or implied in this Agreement is intended to confer upon any person other than the parties hereto any rights, remedies, obligations or liabilities whatsoever. Notwithstanding the foregoing, the Covered Entity in this Agreement is the Agency of Human Services operating by and through its Office of Vermont Health Access. Covered Entity and Business Associate agree that the term “Covered Entity” as used in this Agreement also means any other Department, Division or Office of the Agency of Human Services to the extent that such other Department, Division, or Office has a relationship with Business Associate that pursuant to the Privacy or Security Rules would require entry into an agreement of this type.
- 15.9 As between Business Associate and Covered Entity, Covered Entity owns all PHI provided by Covered Entity to Business Associate or created or received by Business Associate on behalf of Covered Entity.
- 15.10 Business Associate shall abide by the terms and conditions of this Agreement with respect to all PHI it receives from Covered Entity or creates or receives on behalf of Covered Entity under this Contract even if some of that information relates to specific services for which Business Associate may not be a “Business Associate” of Covered Entity under the Privacy Rule.

15.11 The provisions of this Agreement that by their terms encompass continuing rights or responsibilities shall survive the expiration or termination of this Agreement. For example: (a) the provisions of this Agreement shall continue to apply if Covered Entity determines that it would be infeasible for Business Associate to return or destroy PHI as provided in Section 12.2 and (b) the obligation of Business Associate to provide an accounting of disclosures as set forth in Section 9 survives the expiration or termination of this Agreement with respect to accounting requests, if any, made after such expiration or termination.

15.12 This Agreement constitutes the entire agreement of the parties with respect to its subject matter, superseding all prior oral and written agreements between the parties in such respect.

(Rev: 3/28/06)

ATTACHMENT F
CUSTOMARY CONTRACT PROVISIONS FOR AGENCY OF HUMAN SERVICES

1. **Agency of Human Services – Field Services Directors** will share oversight with the department (or field office) that is a party to the contract for provider performance using outcomes, processes, terms and conditions agreed to under this contract.
2. **2-1-1 Data Base:** The Contractor providing health or human services within Vermont, or near the border that is readily accessible to residents of Vermont, will provide relevant descriptive information regarding its agency, programs and/or contact and will adhere to the "Inclusion/Exclusion" policy of Vermont's 2-1-1. If included, the Contractor will provide accurate and up to date information to their data base as needed. The "Inclusion/Exclusion" policy can be found at www.vermont211.org

3. **Medicaid Program Contractors:**

Inspection of Records: Any contracts accessing payments for services through the Global Commitment to Health Waiver and Vermont Medicaid program must fulfill state and federal legal requirements to enable the Agency of Human Services (AHS), the United States Department of Health and Human Services (DHHS) and the Government Accounting Office (GAO) to:

Evaluate through inspection or other means the quality, appropriateness, and timeliness of services performed; and

Inspect and audit any financial records of such contractor or subcontractor.

Subcontracting for Medicaid Services: Having a subcontract does not terminate the contractor, receiving funds under Vermont's Medicaid program, from its responsibility to ensure that all activities under this agreement are carried out. Subcontracts must specify the activities and reporting responsibilities of the contractor or subcontractor and provide for revoking delegation or imposing other sanctions if the contractor or subcontractor's performance is inadequate. The contractor agrees to make available upon request to the Agency of Human Services; the Office of Vermont Health Access; the Department of Disabilities, Aging and Independent Living; and the Center for Medicare and Medicaid Services (CMS) all contracts and subcontracts between the contractor and service providers.

Medicaid Notification of Termination Requirements: Any contractor accessing payments for services under the Global Commitment to Health Waiver and Medicaid programs who terminates their practice will follow the Office of Vermont Health Access, Managed Care Organization enrollee notification requirements.

Encounter Data: Any contractor accessing payments for services through the Global Commitment to Health Waiver and Vermont Medicaid programs must provide encounter data to the Agency of Human Services and/or its departments and ensure that it can be linked to enrollee eligibility files maintained by the State.

4. **Non-discrimination Based on National Origin as evidenced by Limited English Proficiency.** The contractor agrees to comply with the non-discrimination requirements of Title VI of the Civil Rights Act of 1964, 42 USC Section 2000d, et seq., and with the federal

guidelines promulgated pursuant to Executive Order 13166 of 2000, which require that contractors and subcontractors receiving federal funds must assure that persons with limited English proficiency can meaningfully access services. To the extent the contractor provides assistance to individuals with limited English proficiency through the use of oral or written translation or interpretive services in compliance with this requirement, such individuals cannot be required to pay for such services.

5. **Voter Registration.** When designated by the Secretary of State, the contractor agrees to become a voter registration agency as defined by 17 V.S.A. §2103 (41), and to comply with the requirements of state and federal law pertaining to such agencies.
6. **Drug Free Workplace Act.** The contractor will assure a drug-free workplace in accordance with 45 CFR Part 76.
7. **Privacy and Security Standards.**

Protected Health Information: The contractor shall maintain the privacy and security of all individually identifiable health information acquired by or provided to it as a part of the performance of this contract. The contractor shall follow federal and state law relating to privacy and security of individually identifiable health information as applicable, including the Health Insurance Portability and Accountability Act (HIPAA) and its federal regulations.

Substance Abuse Treatment Information: The confidentiality of any alcohol and drug abuse treatment information acquired by or provided to the contractor or subcontractor shall be maintained in compliance with any applicable state or federal laws or regulations and specifically set out in 42 CFR Part 2.

Other Confidential Consumer Information: The contractor agrees to comply with the requirements of AHS Rule No. 96-23 concerning access to information. The contractor agrees to comply with any applicable Vermont State Statute, including but not limited to 12 VSA §1612 and any applicable Board of Health confidentiality regulations. The contractor shall ensure that all of its employees and subcontractors performing services under this agreement understand the sensitive nature of the information that they may have access to and sign an affirmation of understanding regarding the information's confidential and non-public nature.

Social Security numbers: The contractor agrees to comply with all applicable Vermont State Statutes to assure protection and security of personal information, including protection from identity theft as outlined in Title 9, Vermont Statutes Annotated, Ch. 62.

8. **Abuse Registry.** The contractor agrees not to employ any individual, use any volunteer, or otherwise provide reimbursement to any individual who provides care, custody, treatment, services, or supervision to children or vulnerable adults if there is a substantiation of abuse or neglect or exploitation against that individual. The contractor will check the Adult Abuse Registry in the Department of Disabilities, Aging and Independent Living. Unless the contractor holds a valid child care license or registration from the Division of Child Development, Department for Children and Families, the contractor shall also check the Central Child Abuse Registry. (See 33 V.S.A. §4919 & 33 V.S.A. §6911).
9. **Child Abuse Reporting.** Notwithstanding the provision of 33 V.S.A. §4913(a) any agent or employee of the contractor who has reasonable cause to believe that a child has been abused or

neglected as defined in Chapter 49 of Title 33 V.S.A. shall report the suspected abuse or neglect to the Commissioner of the Department for Children and Families within 24 hours. The report shall contain the information required by 33 V.S.A. §4914.

10. **Work Product Ownership.** All data, technical information, materials gathered, originated, developed, prepared, or obtained as a condition of this agreement and used in the performance of this agreement - including, but not limited to all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and printouts, notes and memoranda, written procedures and documents, which are prepared for or obtained specifically for this agreement - or are a result of the services required under this contract - shall be, and remain, the property of the State of Vermont, regardless of the state of completion. Such items shall be delivered to the State of Vermont upon 30 days notice by the State. With respect to software computer programs and / or source codes developed for the State, the work shall be considered "work for hire," i.e., the State, not the contractor or subcontractor, shall have full and complete ownership of all software computer programs and/or source codes developed.
11. **Security and Data Transfers.** The State shall work with the Contractor to ensure compliance with all applicable State and Agency of Human Services' policies and standards, especially those related to privacy and security. The State will advise the Contractor of any new policies, procedures, or protocols developed during the term of this agreement as they are issued and will work with the Contractor to implement any required.

The Contractor will ensure the physical and data security associated with computer equipment - including desktops, notebooks, and other portable devices - used in connection with this agreement. The Contractor will also assure that any media or mechanism used to store or transfer data to or from the State includes industry standard security mechanisms such as continually up-to-date malware protection and encryption. The Contractor will make every reasonable effort to ensure media or data files transferred to the State are virus and spyware free. At the conclusion of this agreement and after successful delivery of the data to the State, the Contractor shall securely delete data (including archival backups) from the Contractor's equipment that contains individually identifiable records, in accordance with standards adopted by the Agency of Human Services.

12. **Intellectual Property Ownership.** All work products and items delivered or produced under this agreement will be the exclusive property of the State of Vermont. This includes, but is not limited to, software, documentation, and development materials. The contractor shall not sell or copyright a work product or item produced under this contract without explicit permission from the State. If the Contractor is operating a system or application on behalf of the State of Vermont then the contractor shall not make information entered into the system or application available for uses by any other party than the State of Vermont, without prior authorization by the State.
13. **Lobbying.** No federal funds under this agreement may be used to influence or attempt to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, continuation, renewal, amendments other than federal appropriated funds.
14. **Non-discrimination.** The contractor will prohibit discrimination on the basis of age under the

Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under Title IX of the Education Amendments of 1972, or on the basis of race, color or national origin under Title VI of the Civil Rights Act of 1964. No person shall on the grounds of sex (including, in the case of a woman, on the grounds that the woman is pregnant) or on the grounds of religion, be excluded from participation in, be denied the benefits of, or be subjected to discrimination, to include sexual harassment, under any program or activity supported by state and/or federal funds.

15. **Environmental Tobacco Smoke.** Public Law 103-227, also known as the Pro-children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, child care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds.

The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where Women, Infants, & Children (WIC) coupons are redeemed.

Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

Contractors are prohibited from promoting the use of tobacco products for all clients. Facilities supported by state and federal funds are prohibited from making tobacco products available to minors.

- Revised AHS -4/11/08-