

1. **Parties.** This is a contract for personal services between the State of Vermont, Department of Vermont Health Access (hereafter called "State"), and Verisk Health Inc. on behalf of itself and its subsidiaries and affiliates, with a principal place of business in Massachusetts (hereafter called "Contractor"). The Contractor's form of business organization is a Corporation. The Contractor's local address is 201 Jones Rd 4th Floor, Waltham MA. It is the Contractor's responsibility to contact the Vermont Department of Taxes to determine if, by law, the Contractor is required to have a Vermont Department of Taxes Business Account Number.
2. **Subject Matter.** The subject matter of this contract is services generally on the subject of Healthcare Effectiveness Data and Information Set measures. Detailed services and software license provisions to be provided by the Contractor are described in Attachment A.
3. **Maximum Amount.** In consideration of the services to be performed by Contractor, the State agrees to pay the Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$337,528.
4. **Contract Term.** The period of Contractor's performance shall begin on December 13, 2013 and end on December 12, 2014. Upon mutual agreement by both parties, this agreement may be renewed for up to two (2) additional one-year terms.
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.

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 Contractor.
7. **Cancellation.** This contract may be cancelled by either party by giving written notice at least 30 days in advance. Notwithstanding this provision, if a governmental agency with due authority determines that a program or facility operated by the Contractor, wherein services authorized under this contract are provided, is not in compliance with State and Federal law or is operating with deficiencies, the State may terminate this contract immediately and notify the Contractor accordingly. Also, in the event that federal funds supporting this contract become unavailable or are reduced, the State may cancel this contract with no obligation to pay the Contractor from State revenues. The State acknowledges and agrees that in the event of cancellation there will be no refund of prepaid annual fees.
8. **Attachments.** This contract consists of 42 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 D - Modifications of Insurance
 - Attachment E - Business Associate Agreement
 - Attachment F - Customary Contract Provisions of the Agency of Human Services

Appendix I – Required Forms

The order of precedence of documents shall be as follows:

- 1). This document
- 2). Attachment D
- 3). Attachment C
- 4). Attachment A
- 5). Attachment B
- 6). Attachment E
- 7). Attachment F
- 8). Appendix I
- 9). Other Attachments (if any)

The provisions of this Agreement shall prevail over any additional or different provisions in a purchase order, acceptance notice, or other similar document.

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT.

BY THE STATE OF VERMONT:

BY THE CONTRACTOR:

LORI COLLINS, DEPUTY COMMISSIONER DATE
LORI.COLLINS@STATE.VT.US
312 HURRICANE LANE
WILLISTON, VT 05495
802-879-5955

JAMIE WELLS, PRESIDENT DATE
REVENUE AND QUALITY INTELLIGENCE DIVISION
JAMIE.WELLS@VERISKHEALTH.COM
201 JONES RD, 4TH FLOOR
WALTHAM, MA 02459
802-767-6747

ATTACHMENT A
SPECIFICATIONS OF WORK TO BE PERFORMED

I. SERVICES AND SOFTWARE LICENSING AGREEMENT

In consideration of the mutual covenants herein, the parties hereto hereby agree as follows:

1. Scope of Services

- 1.1 Services.** Subject to the State performing its obligations hereunder, the Contractor shall provide business information processing and related services (“Services”) at the prices and containing the features set forth below. References to the term “Agreement” shall be deemed to include all relevant Exhibits to this Agreement, unless the context clearly indicates otherwise. The Contractor’s subsidiary, MediConnect Global, Inc. may perform work under this agreement. Under no circumstance shall work performed under this agreement be conducted off-shore. All work performed under this agreement must be done in the Continental United States. Services performed prior to the start of this agreement but not sooner than November 1, 2013 will be paid for by the State under the Payment Provisions set forth in Attachment B.
- 1.2 Software.** Contractor shall provide the State with access to then-current version of its software within 30 days of December 13, 2013. A description of, and the License governing State’s use of, the Contractor’s software is set forth in Exhibit A (“Licensed Software”).

2. Implementation

- 2.1 Designation of Project.** Each party shall designate in writing one person (“Project Coordinator”) who will be the contact person for all implementation issues associated with the performance of this Agreement. Each party may substitute or replace its Project Coordinator at any time upon providing written notice to the other party. Each party shall make its Project Coordinator available for planning sessions, status meetings, telephone consultation, and otherwise as reasonably required to facilitate the implementation of this Agreement.

For the State:

Jeff Ross
Jeff.Ross@state.vt.us
802-871-8201

For the Contractor:

Mike Adams
Mike.Adams@veriskhealth.com
801-871-1117

3. Proprietary Rights

- 3.1 Proprietary Rights.** Except as expressly provided in this Agreement, the Contractor retains all right, title, and interest, including without limitation all copyrights, trade secrets, patents, trademarks, service marks, and all other proprietary rights in and to all Contractor Confidential Information as defined in Section 5 below including without limitation the Licensed Program (as defined in Exhibit A). Except as expressly provided in this Agreement, the State retains all right, title, and interest, including without limitation all copyrights, trade secrets, patents, trademarks, service marks, and all other proprietary rights in and to all State Confidential Information as defined in Section 5.

4. Warranty and Disclaimer

- 4.1 General.** The Contractor represents and warrants that the services provided hereunder shall be provided in a professional manner in accordance with industry standards and that the software will operate in substantial compliance with the software documentation and the descriptions for the software set forth in Exhibit A.
- 4.2 NCQA Certification.** The Contractor represents and warrants that it has obtained, and will maintain during the term of this Agreement, National Committee for Quality Assurance (“NCQA”) certification.
- 4.3 Disclaimer.** EXCEPT AS EXPLICITLY SET FORTH IN THIS AGREEMENT AND THE ATTACHED EXHIBITS AND SCHEDULES, THE CONTRACTOR SERVICES AND THE LICENSED PROGRAMS (AS DEFINED IN EXHIBIT A) AND ANY RESULTS OBTAINED THEREFROM ARE PROVIDED ON AN “AS IS” BASIS, WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

5. Confidential Information

- 5.1 Definition.** The term “Confidential Information” shall mean any information either disclosed in writing or given orally by one Party (the “Disclosing Party”) to the other (the “Receiving Party”) in connection with this Agreement.
- 5.2 Exclusions.** Notwithstanding Section 5.1, Confidential Information shall exclude information that: (a) was independently developed by the Receiving Party without any use of the Disclosing Party’s Confidential Information or by the Receiving Party’s employees or other agents (or independent contractors hired by the Receiving Party) who have not been exposed to the Disclosing Party’s Confidential Information; (b) becomes known to the Receiving Party, without restriction, from a source other than the Disclosing Party without breach of this Agreement and that had a right to disclose it; (c) was in the public domain at the time it was disclosed or becomes in the public domain through no act or omission of the Receiving Party; or (d) was rightfully known to the Receiving Party, without restriction, at the time of disclosure.
- 5.3 Confidentiality of Agreement.** Each party hereto agrees that it shall use reasonable efforts to insure that the other party’s Trade Secrets, and privileged and Confidential Information are protected and kept confidential ; provided, however, that each party may disclose the terms of this Agreement: (1) as required by any court or other governmental body; (2) as otherwise required by law, including the Vermont Access to Public Records Act, Title 1 V.S.A. subchapter 3, and the Freedom of Information Act (“FOIA”); (3) to legal counsel of the parties; (4) in connection with the requirements of an initial public offering or securities filing; (5) in confidence, to accountants, banks, and financing sources and their advisors; (6) in confidence, in connection with the enforcement of this Agreement or rights under this Agreement; or (7) in confidence, in connection with a merger or acquisition or proposed merger or acquisition, or the like. Notwithstanding the above, the Contractor’s trade secrets are protected from disclosure under the Uniform Trade Secrets Act and the Vermont Access to Public Records Law. The Contractor’s trade secrets are also exempt from the government’s disclosure obligations under FOIA, and shall not be disclosed with the requesting public (unless specifically authorized by law). The State shall notify the Contractor in writing before any information that the Contractor has identified to the State as a trade secret or otherwise confidential is disclosed to a requesting party, so that the Contractor has a reasonable opportunity to respond and object before such information is disclosed. The

Contractor's designation of information as a trade secret is not binding to the State. Whether to disclose information in response to a request under the Vermont Access to Public Records Law is a matter for the State's discretion. The Contractor does not waive any rights it may have to contest the State's determination as to disclosure.

- 5.4 Compelled Disclosure.** If a Receiving Party is, or believes that it will be, compelled by a court or other authority to disclose Confidential Information of the Disclosing Party, it shall give the Disclosing Party prompt notice so that the Disclosing Party may take steps to oppose such disclosure.
- 5.5 Obligations.** The Receiving Party shall treat as confidential all of the Disclosing Party's Confidential Information and shall not use such Confidential Information except as expressly permitted under this Agreement
- 5.6 Privacy.** In the course of performing its obligations under this agreement, the Contractor will abide by all applicable laws and regulations relating to privacy and the Business Associate Agreement that is attached to this Contract as Attachment E.

6. Term and Termination

- 6.1 Effect of Termination.** Upon any termination of this Agreement, all of the State's rights and licenses granted hereunder to use the Contractor software and/or user manuals, training materials, and other written materials that relate to the Services and that the Contractor normally makes available to its clients ("Documentation") shall immediately terminate. The Contractor shall use reasonable efforts to cooperate with State in the transfer to a successor service provider. The State shall compensate Contractor at its normal hourly rates and for all necessary out-of-pocket expenses incurred in providing such assistance. Notwithstanding the foregoing, under no circumstances will the Contractor be required to disclose or make available to the State or any third party any confidential or proprietary information of the Contractor.
- 6.2 Survival of Provisions.** The provisions of Sections 3, 4, 5, 6, 7, and 8, Attachment B (but only to the extent that payment is for services rendered prior to termination), Exhibits A (Sections 1.2, 1.3, 2 and 3), and C shall survive any expiration of termination of this Agreement. All other rights and obligations of the parties shall cease upon termination of this Agreement.

7. Limitation of Liability

- 7.1 Failure of Essential Purpose.** The limitations in this Section 7 shall apply even if the Contractor or the State has been advised of the possibility of such damage, and notwithstanding the failure of essential purpose of any limited remedy set forth herein.

8. General Provisions

- 8.1 Notices.** Any notice required or permitted by this Agreement shall be in writing and shall be personally delivered, or by messenger or a recognized overnight delivery service having a delivery tracking and verification system (such as Federal Express, UPS, or DHL) charges prepaid or sent by first class United States mail or by overnight courier, addressed to the other party hereto at the addresses set forth below. Notices sent via mail or overnight courier shall be deemed to have been given one (1) business day after mailing or deposit with the courier; provided, however, in the case of notice sent by mail that a copy of the notice also shall be sent on the date of mailing by facsimile transmission to the fax number designated by the other party.

For Contractor:

Verisk Health Inc.
201 Jones Rd 4th Floor
Waltham, MA 02451
Attn: Kevin Lentsch | VP Operations
Phone: 801.871.1102

For State:

Department of Vermont Health Access
312 Hurricane Lane, Suite 201
Williston, VT 05495
Attn: Jeff Ross
Phone: 802-879-8201

- 8.2 Excusable Nonperformance.** Notwithstanding any other provision of this Agreement, neither party hereto shall be responsible for damages for any delay, interruption in Services, or failure to perform to the extent arising out of causes beyond such party's reasonable control which prevents their performance, provided prompt notice thereof is given to the other party. Such events may include but are not limited to acts of God or a public enemy, acts of the Federal Government in its sovereign or contractual capacity, earthquake, fire, floods, or degradation of telephone or other communication service.
- 8.3 No Waiver.** The failure of either party hereto to enforce at any time any of the provisions of this Agreement, or the failure to require at any time performance by the other party of any of the provisions of this Agreement, shall in no way be construed to be a present or future waiver of such provisions, nor in any way affect the ability of either party to enforce each and every such provision thereafter. The express waiver by either party of any provision, condition or requirement of this Agreement shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement.
- 8.4 Titles and Subtitles.** The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.
- 8.5 Severability.** In the event any section, paragraph, subparagraph, or provision of this Agreement shall be determined to be contrary to governing law or otherwise unenforceable, all remaining portions of this Agreement shall be enforced to the maximum extent permitted by law. That section, paragraph, subparagraph or provision found unenforceable shall first be construed or interpreted, if possible, to render it enforceable and, if that proves impossible, shall be severed and disregarded, with the remainder of this Agreement enforced to the maximum extent permitted by law.
- 8.6 Disputes Resolution.** The parties shall attempt, in good faith, to resolve any dispute, controversy or claim arising under, out of or relating to this Agreement and any subsequent amendments of this Agreement, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. The parties agree to meet to discuss the dispute, controversy or claim within 30 days of receipt of written request by a party for such a meeting.

- 8.7 Contractor's Corporate Authority and Due Execution.** The Contractor represents that (a) it has the corporate power and authority to execute, deliver, and perform this Agreement and that the execution, delivery, and performance of this Agreement by the Contractor have been duly authorized by all necessary corporate action; and (b) that this Agreement has been duly executed and delivered by the Contractor and constitutes the legal, valid, and binding obligation of the Contractor enforceable against the Contractor in accordance with its terms.
- 8.8 State's Corporate Authority and Due Execution.** State represents that (a) it has the power and authority to execute, deliver, and perform this Agreement and that the execution, delivery, and performance of this Agreement by State have been duly authorized by all necessary corporate action; and (b) that this Agreement has been duly executed and delivered by State and constitutes the legal, valid, and binding obligation of State enforceable against State in accordance with its terms.
- 8.9 Counterparts.** This Agreement may be executed in counterparts, duplicate originals or facsimiles, each of which shall be regarded as one and the same instrument, and which shall be the official and governing version in the interpretation of this Agreement.

II. EXHIBIT A - QUALITY INTELLIGENCE SOFTWARE LICENSE

1. Quality Intelligence Software Description

(a) *Base Application Service Description*

Quality Intelligence is a suite of software modules which provide for the calculation and analysis of Healthcare Effectiveness Data and Information Set ("HEDIS") measures. HEDIS is developed and maintained by the National Committee for Quality Assurance ("NCQA"), a not-for-profit organization committed to assessing, reporting on, and improving the quality of care provided by organized delivery systems. HEDIS[®] is a registered trademark and HEDIS Software CertificationSM is a service mark of the National Committee for Quality Assurance.

Quality Intelligence consists of:

- (i) Quality Engine ("Quality Engine"), which calculates: HEDIS administrative rates and is 100% certified by the NCQA HEDIS Software CertificationSM program, a systematic sampling module that is also 100% certified under the NCQA Software Certification program; a medical record chase module, which identifies health care providers which are likely to possess the medical records needed for the HEDIS hybrid methodology chart review process; a patient level detail ("PLD") file generator used for submission of Medicare data to NCQA; and other utilities for extraction of demonstration data, NCQA (Interactive Data Submission System ("IDSS") submission file creation, and administrative updates to sample data.
- (ii) Quality Reporter ("Quality Reporter"), which provides HEDIS reports, detailed data drills for analysis, audit, comparative studies, intervention support, medical record review, and other data analysis features.

All Quality Intelligence Application Services including HEDIS databases will be installed and hosted on the Contractor's servers. The Quality Engine component of the Licensed Programs is not available for access by State. State will have access to Quality Reporter via a secure remote desktop connection.

- (b) *Additional Measures.* Quality Reporter will include the Prevention Quality Indicator (PQI) Measures. PQI measure set will include the initial creation and coding of the measures, measure detail and measure summary reports. This is under the assumption that no additional custom reporting is required.
- (c) *Remote Access.* The Contractor will provide remote access to the Application Services to five (5) named users. User connections allocated to Permitted Contractors will be deducted from the total number of connections allotted to State.
- (d) *Measurement Production Services.* The Contractor will: audit and load State data; execute measure logic; perform sampling extractions and chase logic; execute two (2) production HEDIS runs, one test run, Consumer Assessment of Healthcare Providers and Systems (“CAHPS”) extracts, and one proactive (Summer) run. Additional HEDIS runs are available for an additional fee, which will be addressed in an amendment to this Agreement as needed.
- (e) The Contractor represents and warrants that it has and will maintain NCQA certification.

2. State Responsibilities

- (a) State will provide computers and operating systems (Microsoft Windows) for remote access to the Contractor servers.
- (b) State will provide input data correctly formatted according to the Contractor data input specifications
 - (1) If the State-Formatted Input Data is correctly formatted but the correctly formatted data is not accepted by the software, the Contractor will correct the problem at no charge.
 - (2) If the State-Formatted Input data is incorrectly formatted, the Contractor will correct the problem at a cost of \$180/hour charged to Ad Hoc.

3. Failure to Provide Data.

In no event, excepting cases of true impossibility, shall State’s failure to provide data to the Contractor constitute a “frustration of the venture” or otherwise discharge State’s obligation to pay the annual fee.

A status meeting will be conducted regularly. Normally every 2 weeks to track deliverables, answer questions, and discuss any open items.

The Contractor’s Web Portal will be used for meeting minutes, open issue tracking, communication, software downloads and training materials.

III. Quality Intelligence Software License Grant

1. Terms

1.1 Grant Terms. Subject to and conditioned upon State’s continued compliance with all the terms and conditions of this License, the Contractor hereby grants to State a personal, nonexclusive, nontransferable license to use the Licensed Program during the Term of this contract at State’s offices noted in the contract solely in conjunction with the Services and solely for State's internal business purposes. State shall have the right to make one (1) copy of the Licensed Program for archival purposes.

1.2 Limitations. State shall not reverse engineer, reverse assemble, decompile, create derivative works, modify, or otherwise attempt to derive the source code of the Licensed Program or, except as expressly set forth in this Agreement, copy, modify, or create derivative works of the Licensed Program..

1.3 Ownership. The Licensed Program is licensed, not sold hereunder. The Contractor retains all right, title and interest in and to the Licensed Program.

2. Limited Warranty and Remedy

2.1 Limited Programs Warranty. The Contractor warrants to State that the Contractor has sufficient rights, title and interest in the Licensed Program to grant this license to State. The Contractor also warrants to State that during the term of this Agreement the Licensed Programs, if unmodified by and properly used by State in accordance with the terms of this Agreement, will support the features detailed in the Contractor's most current software documentation and will perform in substantial compliance with the descriptions set forth above. **THE CONTRACTOR DOES NOT WARRANT (I) THAT THE LICENSED PROGRAMS WILL MEET STATE'S REQUIREMENTS; (II) THAT THE LICENSED PROGRAMS WILL OPERATE IN COMBINATION WITH OTHER SOFTWARE OR HARDWARE WHICH MAY BE SELECTED FOR USE BY STATE; OR (III) THAT THE OPERATION OF THE LICENSED PROGRAMS WILL BE UNINTERRUPTED OR ERROR-FREE.**

2.2 Limited Programs Remedy. In the event of any breach by the Contractor of the warranty set forth in Section 2.1, the Contractor's sole and exclusive obligation and State's sole and exclusive remedy shall be to, at the Contractor's sole option: (i) modify or replace the Licensed Programs such that they support the features detailed in the Contractor's most current software documentation or (ii) terminate the Services and refund to State all fees paid. The above remedy shall be available to State only if (i) State promptly notifies the Contractor in writing of any breach of the warranty; and (ii) the Contractor examination of the Licensed Program discloses that such breach exists.

3. Intellectual Property

3.1 Indemnity by Contractor. The Contractor warrants that, the Licensed Programs do not infringe any third party's U.S. patent, trade secret, trademark, or copyright. The Contractor shall defend, or at its option settle, any claim, suit, or proceeding brought against State by any third party arising out of any such infringement or alleged infringement, provided that (i) State gives the Contractor prompt written notice of any such claim; (ii) the Contractor shall have sole control of any such action or settlement negotiations; and (iii) the State provides all reasonable cooperation in connection therewith.

3.2 Remedy. Notwithstanding the foregoing, if it is adjudicatively determined that any Licensed Program or part thereof infringes, or in the Contractor's sole opinion, may be found to infringe, a third-party's patent, trade secret, trademark, or copyright, or if the sale or use of the Licensed Program is, as a result, enjoined, then the Contractor may, at its sole option and expense to promptly either: (i) procure for State the right under such patent, trade secret, trademark, or copyright to use the Licensed Program; (ii) replace the Licensed Program with other non-infringing, functionally equivalent Licensed Programs; (iii) modify the Licensed Program (while maintaining its functional equivalency) to make the Licensed Program non-infringing; or (iv) terminate the license granted to State under Section 1.1 and the Contractor shall refund a prorate portion of the prepaid license fee amounts paid under this contract.

3.3 Limitation. Notwithstanding the provisions of Section 3.1 and 3.2 above, the Contractor shall have no liability for the acts or omissions of the State, or its agents, for: (i) combination of the Licensed Program with other software not provided or approved by the Contractor, if the infringement would not arise

from such Licensed Program standing alone; or (ii) modification of the Licensed Program, unless such modification was made or approved by the Contractor, where such infringement would not have occurred but for such modification.

3.4 Disclaimer. THE FOREGOING PROVISIONS OF THIS SECTION 3 STATE THE ENTIRE LIABILITY AND OBLIGATION OF THE CONTRACTOR TO THE STATE , AND THE EXCLUSIVE REMEDY OF STATE, WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF PATENTS, COPYRIGHTS, TRADE SECRETS, TRADEMARKS, OR OTHER INTELLECTUAL PROPERTY RIGHTS. This disclaimer shall be construed in no way to infringe or limit the rights of third parties, or in such a way that the State assumes liability to third parties for acts or omissions of the Contractor.

IV. EXHIBIT B - STATEMENT OF WORK

1. HEDIS[®] Reporting

This Statement of Work covers the activities for the provision of services to enable NCQA HEDIS[®] reporting. The Contractor has agreed to provide State with the business information processing and related services (“Services”) set forth below.

The Contractor will provide State internet access to the following software modules:

- Quality Intelligence

The Contractor’s Standard support hours are 8:00am – 5:00pm Central Time, Monday through Friday. For support outside Standard support hours, specific arrangements for after-hours support must be made by State with the Contractor a minimum of forty-eight (48) hours in advance of the support being conducted. The Contractor will inform State in advance when a specific request for service requires support outside of the standard support hours.

Services available via:

Email – hedis-support@Verisk.com

Phone – 952.368.9970

2. Consulting Services

Consulting Services are defined as follows:

- Installation and testing of the Contractor software on State’s systems.

3. User Support Services

The Contractor User Support personnel responding to user interface questions related to the Contractor’s proprietary software.

4. Input Data Format

The Contractor data input specifications (“Input Specifications”) are published on the Contractor’s client portal (“Project Site”). The Contractor will provide an initial 90-minute phone meeting to review the Input Specifications and answer questions. Further, a Contractor Data Analyst will be designated to answer questions and provide feedback to the State technical personnel on an on-going basis as needed in order to understand and interpret the Input Specifications at no charge.

(a) Input Data

- (i) *Input Data Format.* The Contractor data input specifications (“Input Specifications”) are published on the Contractor’s Web Portal.
- (ii) *Correction of State Input Data.* In the event that State is unable or unwilling to create input data to utilize Quality Engine to process data and produce correct results, State will send its then-current input data (“State-Formatted Input Data”) to the Contractor for analysis and processing. Once analyzed, the Contractor will do one of the following:
 - (1) If the State-Formatted Input Data is determined to be incorrectly formatted for input to the Quality Engine, the Contractor will create a client translation process (“State Data Translation”) and translate State-Formatted Input Data (at the Contractor’s standard support rate set out in Attachment B) in order for State-Formatted Input Data to correctly be presented as input to the Quality Engine. If data that is required for Quality Engine was omitted from State-Formatted Input Data, the State agrees to modify State-Formatted Input Data as requested by the Contractor and send such data to the Contractor as needed. Once the State Data Translation is developed, the Contractor will provide a “plug-in” to its Quality Engine, which will incorporate the State Data Translation into the Quality Engine for State to use for future HEDIS runs. The State agrees to utilize the State-Formatted Input Data format for future runs of the Quality Engine.
 - (2) If the State-Formatted Input Data is determined to be correctly formatted but is not accepted by the software, the Contractor will correct the problem at no charge.
 - (3) Any orders that are pended in a needs information status for longer than 28 days without response or direction from the State will be automatically cancelled.

5. Audit of Input Data

The Contractor will provide data audit processes and reports (the “Contractor Data Audit Tool”), which is a part of the ‘VERISK’ Engine product, and which identifies problems and inconsistencies with input data. Further, once the State begins submitting data to ‘VERISK’ Engine, the Contractor will designate a Data Analyst to answer questions and provide feedback to the State technical personnel as needed in order to resolve discrepancies in HEDIS output results. If it is determined that the Data Audit Tool failed to identify erroneous input data for the ‘VERISK’ Engine, then the Contractor consulting services necessary to correct the problem will be provided at no charge. If it is determined that the Contractor Data Audit Tool clearly identified erroneous input data for the ‘VERISK’ Engine, which was ignored and subsequently used as input to the ‘VERISK’ Engine, the Contractor will charge its standard rate for such services to correct the problem (\$180/hour). The \$5,000 expense budget contained in this agreement is intended to be used to pay for these services.

6. Internet and Remote Access

State agrees to provide remote access to its systems, as needed, in order for the Contractor to fulfill obligations as defined herein.

State agrees to provide Internet access for the ‘VERISK’ Engine software for the purposes of product support and license verification.

7. Correction of State Input Data

In the event that the State is unable or unwilling to create input data to utilize VERISK Engine to process data and produce correct results, the State will send its then-current input data (“State-Formatted

Input Data”) to Contractor systems for analysis and processing. Once analyzed, the Contractor will do one of the following:

- a) If the State-Formatted Input Data is determined to be incorrectly formatted for input to the ‘VERISK’ Engine, Contractor will create a client translation process (“State Data Translation”) and translate State-Formatted Input Data in order for State-Formatted Input Data to correctly be presented as input to the ‘VERISK’ Engine. Such expenses shall be billed under the Ad Hoc budget at a rate of \$180 per hour. If data that is required for the ‘VERISK’ Engine was omitted from State-Formatted Input Data, the State agrees to modify State-Formatted Input Data as requested by the Contractor, and send such data to the Contractor as needed. Once the State Data Translation is developed, the Contractor will provide a “plug-in” to its ‘VERISK’ Engine, which will incorporate the State Data Translation into the ‘VERISK’ Engine for State to use for future HEDIS runs. The State agrees to utilize the State-Formatted Input Data format for future runs of the ‘VERISK’ Engine at State’s site.

If the State-Formatted Input Data is determined to be correctly formatted, the Contractor will correct the problem and provide a corrected version of the ‘VERISK’ Engine to State at no charge.

V. Deliverables and Schedule

The following Deliverables Schedule details the support included in the statement of work. The deliverable schedule assumes the enrolled members are less than 300,000. The number of enrolled members is defined by the number of members loaded into the software.

Item	<i>Deliverable description</i>	Assigned to	Completion Date
1	Kickoff meeting, Web Portal Set up, Software access	Contractor	SOW execution plus 14 days
2	State Questionnaire completed	State	SOW execution plus 7 days
3	Input File Walkthrough	Contractor	SOW execution plus 14 days
4	Test Admin Data prepared	State	SOW execution plus 21 days
5	Train Quality Reporter via webinar - Viewing	Contractor	SOW execution plus 14 days
6	Test Run completed	Contractor	21 days from the receipt of usable input files
7	Data Analysis - Test	State	Test Run plus 14 days
8	Retest (if necessary)	State	TBD
9	Location/Provider cleanup performed	State	Test Run plus 14 days
10	Sample Configuration Completed	State	Late December
11	Chase Configuration Completed	State	Late December
12	CAHPS - Files made available	State	Early January
13	CAHPS Extract Completed	Contractor	7 days from the receipt of usable input files. Input files should be

Item	<i>Deliverable description</i>	Assigned to	Completion Date
			standard or in the same format as test input
14	Production Software Validation	State	Mid-January
15	Production Input Files Prepared	State	Mid February
16	Production Datamart with Sample Pull Available	Contractor	7 days from the receipt of usable input files. Input files should be standard or in the same format as test input
17	Data Analysis - Production	State	Delivery of Production Data plus 14 days
18	Train Quality Reporter	Contractor	Viewing features and managing chart review – In Person (July-Nov) Performing Chart Review – In Person (Dec-March)
19	Administrative Refresh Input Prepared	State	Mid April
20	Final Datamart Created	Contractor	7 days from the receipt of usable input files. Input files should be standard or in the same format as test input
21	Chart Review	State	Early May
22	IDSS Plan Lock	State	June
23	IDSS Mark Final	State	June
24	PLD Submission	State	June
25	Feedback Meeting	State and Contractor	July
26	Proactive Run	Contractor	July-Oct

VI. Roles and Responsibilities

The following defines the State’s and the Contractor’s roles and responsibilities for activities within this Statement of Work:

1. HEDIS® Reporting

The Contractor shall be responsible for activities as follows:

1. Maintain certification for its HEDIS® software for all certifiable measures.

2. Provide requested professional services as required by State during normal business hours as stated in Section IV.

2. Change Management

Deliverable completion dates cannot be changed except via this change control process. If a deliverable date is to change, a change control request shall be submitted to State's Project Manager for review and consideration. The request should indicate why the change is necessary and what it will cost, as well as the impact on the planned activity dates. Once reviewed and approved, the Project Manager must submit the change via appropriate standard State request documentation to the State approval process for additional funding; if additional funding is approved, the changes will take place once reduced to writing and signed by both parties in an amendment to this agreement.

3. Performance Measures

The Contractor shall provide timely reporting to generate annual HEDIS measures after receiving standard input data from the State. Each missed deliverable may result in a five (5) percent penalty against the Contractor at the discretion of the State. The Contractor shall maintain their status as an NCQA certified HEDIS vendor. The Contractor shall assist the State with the annual HEDIS audit from External Quality Review Organization ("EQRO") and with any subsequent communication and documentation needed following the audit.

VII. HEDIS Medical Record Retrieval and Review (Chart Abstraction) Services

Definitions: Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the Agreement.

- a. "Member" means the person identified by State to the Contractor as receiving health benefits coverage from State.
- b. "Provider" means a provider of healthcare services to a Member.
- c. "Medical Record" means the medical record of the Member in the "as is" condition as provided by the medical Provider.
- d. "Request File" means an electronic data import file including, but not limited to, all of the data elements required for retrieval of Medical Records
- e. "Provider Site Fee" means all pre- and post- payment fees charged by a Provider or copy service for research, copying, mailing, faxing and / or electronic forwarding of Medical Records, and a Contractor handling fee.
- f. "Request" / "Request ID" means the Contractor's system-generated unique identification number that is assigned to each individual line item of Member/Provider/Measure combination imported and created from the Request File given to the Contractor by State, with each Request ID associated to a single Request.
- g. "Standard Project Reports" means previously developed reports that can be provided to the State by the Contractor.
- h. "Verisk System" means the Contractor's secure, web-based medical record retrieval and HEDIS abstraction systems TM which allow for the tracking of Requests, and the viewing, managing and downloading of Medical Records.

1. ASSUMPTIONS:

- a. The base price includes up to 3,500 charts per HEDIS season and will be billed at the rate set forth in Attachment B. Volume over three thousand five hundred (3,500) per year will require a written amendment to this agreement between the Contractor and the State.

- b. Any request ID orders that are pended in a “needs information” status for longer than 28 days without response or direction from the State will be automatically cancelled.
- c. The Contractor will provide all Medical Record retrieval and Medical Record abstraction services through its standard processes and procedures.
- d. In connection with its provision of the services hereunder, the Contractor may utilize subcontractors, provided that the Contractor shall be solely responsible to the State for the quality of the services provided hereunder and no work shall be performed offshore.
- e. State shall provide any necessary computers, operating systems, and internet connections required for its access of the “VERISK” Systems.
- f. State acknowledges that the “VERISK” Systems are the sole and exclusive property of the Contractor. State may access the “VERISK” Systems solely during the term of this agreement and solely to the extent necessary to exercise its rights under this agreement. The “VERISK” Systems may not be used, disclosed, transmitted, transferred, sold, assigned, leased or otherwise disposed of, or made available for access by third parties, or be commercially exploited by or on behalf of the State, its employees or agents.

2. CONTRACTOR RESPONSIBILITIES / DESCRIPTION OF SERVICES:

Medical Record Retrieval Services

Upon receipt of the Request File, the Contractor will provide Medical Record Retrieval Services for each Request ID created upon import of the Request File. Retrieval Services will follow the Contractor’s patented, proprietary retrieval methodology, which includes:

- a. Providing State’s direct employees with unlimited login ID's to access and use the Contractor’s Retrieval System during the Term of this SOW;
- b. Conducting necessary data quality assurances on the imported Request File in order to correctly identify Provider information (verifying provider contact data, organizing requests by group ID vs. provider ID, etc.);
- c. Contacting each medical Provider telephonically, by mail, or by fax (as appropriate) to request Medical Records for the appropriate dates of service and sending via fax or mail the medical record request confirmation letter and member pull list;
- d. Conducting necessary follow-up with Providers for the purpose of retrieving Medical Records;
- e. If a Provider indicates it is unwilling to mail, fax, or upload the requested Medical Records to the Contractor, the Contractor will notify the State, and the State will engage its provider relations group to contact the provider and encourage remote retrieval participation. If the Provider is still unwilling to participate in remote retrieval efforts following the State’s provider relations engagement, the Contractor may dispatch a Medical Record Technician to go on-site to the provider location to acquire medical record documentation with the understanding that all on-site expenses will be passed through to State for reimbursement;
- f. Inputting status notes into the “VERISK” System to allow the State real-time tracking of each Request;
- g. Allowing for automated email alerts when additional information is needed from the State (i.e., excessive fee approval);
- h. Providing toll-free telephone number(s) for Provider questions and assistance;
- i. Providing a dedicated account manager and account team to ensure smooth transition of work, and accurate, timely work completion;
- j. Holding regularly scheduled conference calls between the State and the Contractor account management and operations teams;
- k. Handling all pre- and post-payments to medical Providers (as necessary):

- i. Any provider/copy service invoice will be forwarded to the State for resolution. The State shall be responsible for the resolutions of these invoices. The Contractor shall not be responsible for any delays or omitted records that result from the State's failure to resolve payment.
- l. Processing of all incoming Medical Records, via mail, fax, provider upload portal or other mutually agreed upon electronic means;
- m. Imaging and associating incoming Medical Records to the appropriate Requests;
- n. Verifying that the imaged records meet quality standards related to clarity, and that the record is associated with the correct member. All records will be delivered in the same "as is" condition that the Medical Records are received from the Provider.
- o. Making all imaged records available for download from the "VERISK" Systems or through electronic delivery via secure File Transfer Protocol (FTP);

Medical Abstraction Services

The Contractor will abstract the measure data from the Medical Records it retrieves for National Committee for Quality Assurance ("NCQA") reporting on the HEDIS hybrid measures.

Secure Transmission of Data.

The Contractor shall transmit all data to State via a secure FTP site as designated to the Contractor by the State. In the event the secure FTP site is unavailable for any reason, data will be transmitted securely in a mutually agreed upon method.

3. STATE RESPONSIBILITIES:

- a. State will provide the Medical Record Request File to the Contractor including all of the information required for Medical Records retrieval by using the portable database creation feature in Quality Reporter.
- b. State will provide a project manager contact for project implementation, data exchange, and day-to-day management of operational issues.
- c. State will provide a memo waiving the Contractor from all Provider SiteFees for services performed under this Agreement.

4. DELIVERABLES

Description of Deliverables

- a. It is expressly understood that the Contractor is performing a service rather than a delivering a product. The service of Medical Records retrieval is defined as the attempt to retrieve Medical Records with an outcome that results in either: a patient Medical Record, no patient/no record, cancellation of request, duplicate request, or Provider refusal of request.
- b. Contractor will provide State imaged copies of all Medical Records received by the Contractor on behalf of State via the "VERISK" Systems.

Acceptance of Deliverables

- a. State agrees that all Medical Records received by the Contractor on behalf of the State will be imaged and delivered to the State in the same "as is" condition that the Medical Records are received from the Provider. As such, the Contractor does not make any representation or warranty of any kind regarding completeness, accuracy, defects, or deficiencies of any Medical Record documentation provided by Provider to Contractor.

5. AD HOC WORK

All other services and related charges not specifically detailed in this Agreement or any exhibit hereto that the State shall, from time to time, request from Contractor, including, but not limited to additional training,

reporting, or services, shall be documented by a Task Order (Appendix I, Required Forms) signed by both parties. The State shall pay Contractor for such services, consistent with the payment terms as outlined in Attachment B, an amount not to exceed \$5,000.

MISCELLANEOUS:

- a) Any provider/copy service invoice will be forwarded to the State for resolution. The State shall be responsible for the resolutions of these invoices. The Contractor shall not be responsible for any delays or omitted records that result from the State's failure to resolve payment.
- b) **The Contractor will not utilize its 3rd party subcontractors to ensure records are provided.** In the event that a provider does not have on-site copy service, and utilizes a 3rd party to produce the record, the State will resolve any such fees. Further, the State will provide the information the State would like the Contractor to provide on all requests; the charges that are caused by the State's failure to do so will be the responsibility of the State. Any Provider who sends medical records to Contractor which requires additional postage, such postage expenses will be forwarded to the State for resolution. The Contractor shall not pay these expenses.
- c) During the Medical Record Retrieval process, any post-payment invoice attached to a delivered medical record will be forwarded to the State for resolution. Such post-payment invoices will be the responsibility of the State.

IX. EXHIBIT E – ADDITIONAL STATE IT REQUIREMENTS

1) Confidentiality of State Information. In the performance of this Contract, and any exhibit or schedule hereunder, the Party acknowledges that certain State Data (as defined below), to which the Contractor may have access may contain individual federal tax information, personal protected health information and other individually identifiable information protected by State or federal law. In addition to the provisions of this Section, the Party shall execute the HIPAA Business Associate Agreement attached as Attachment E. Before receiving or controlling State Data, the Party will have an information security policy that protects its systems and processes and media that may contain State Data from internal and external security threats and State Data from unauthorized disclosure, and a copy of such policy has been provided to the State. No State Data will be stored, accessed from, or transferred to any location outside the United States be stored, accessed from, or transferred to any location outside the continental United States.

Contractor agrees to keep confidential all information received and collected by Contractor in connection with this contract unless otherwise instructed by the State. The Contractor agrees not to publish, reproduce, or otherwise divulge any such State Data in whole or in part, in any manner or form or authorize or permit others to do so outside the disclosures authorized by this Agreement. Contractor will take reasonable measures as are necessary to restrict access to State Data in the Contractor's possession to those employees on his/her staff who must have the information on a "need to know" basis.

The Contractor shall promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for State Data to which the Contractor or any third party hosting service of the Contractor may have access, so that the State may seek an appropriate protective order.

The Contractor represents and warrants that it has implemented, and it shall maintain during the term of this Contract, reasonable information security protocols consistent with industry best practices to (i) ensure the security and confidentiality of State Data; (ii) protect against any anticipated security threats or hazards to the security or integrity of the State Data; and (iii) protect against unauthorized access to or use of

State Data. Such measures include at a minimum, as applicable: (1) access controls on information systems, including controls to authenticate and permit access to State Data only to authorized individuals and controls to prevent the Contractor employees from providing State Data to unauthorized individuals who may seek to obtain this information (whether through fraudulent means or otherwise); (2) industry-standard firewall protection; (3) encryption of electronic State Data while in transit from the Contractor networks to external networks; (4) measures to store in a secure fashion all State Data which shall include multiple levels of authentication; (5) dual control procedures, segregation of duties, and pre-employment criminal background checks for employees with responsibilities for or access to State Data; (6) measures to ensure that the State Data shall not be altered or corrupted without the prior written consent of the State; (7) measures to protect against destruction, loss or damage of State Data due to potential environmental hazards, such as fire and water damage; (8) staff training to implement the information security measures; and (9) monitoring of the security of any portions of the Contractor systems that are used in the provision of the services against intrusion on a twenty-four (24) hour a day basis.

- 2) Security Breach Reporting. The Contractor acknowledges that in the performance of its obligations under this Contract, it will be a “data collector” pursuant to Chapter 62 of Title 9 of the Vermont Statutes (9 V.S.A. §2430(3)). In the event of any actual or suspected security breach the Contractor either suffers or learns of that either compromises or could compromise State Data in any format or media, whether encrypted or unencrypted (including personally identifiable information) (for example, but not limited to, physical trespass on a secure facility, intrusion or hacking or other brute force attack on any State environment, loss/theft of a PC or other portable device (laptop, desktop, tablet, smartphone, removable data storage device), loss/theft of printed materials, failure of security policies, etc.) (collectively, a “Security Breach”), and in accordance with 9 V.S.A. §2435(b)(2), the Contractor will immediately notify appropriate State personnel of such Security Breach.

The Contractor's report shall identify: (i) the nature of the Security Breach, (ii) the State Data used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. The Contractor shall provide such other information, including a written report, as reasonably requested by the State.

The Contractor agrees to comply with all applicable laws that require notification in the event of unauthorized release of personally-identifiable information as they may be amended from time to time, including, but not limited to Chapter 62 of Title 9 of the Vermont Statutes or other event requiring notification. In the event of a breach of any of the Contractor's security obligations or other event requiring notification under applicable law (“Notification Event”), the Contractor agrees to fully cooperate with the State, assume responsibility for such notice if the State determines it to be appropriate under the circumstances of any particular Security Breach, and assume all costs associated with a Security Breach, including but not limited to, notice, outside investigation and services (including mailing, call center, forensics, counsel and/or crisis management), and/or credit monitoring, in the sole determination of the State. Without limiting the generality of the foregoing, the Contractor acknowledges and agrees that, by execution of this Contract, it acknowledges it is acting or conducting business in the State of Vermont.

Professional Liability Insurance Coverage. In addition to the insurance required in Attachment C to this Contract, Contractor agrees to procure and maintain professional liability insurance for any and all services performed under this Contract, with a minimum coverage of \$1,000,000 per occurrence.

Intellectual Property/Work Product Ownership.

The State shall retain all right, title and interest in and to all data content provided by the State, and to all

information that is created under this Contract, including, but not limited to, all data that is generated under this Contract as a result of the use by Contractor, the State or any third party of any technology systems (“**State Information**”), and all other rights, tangible or intangible derived from State Information (collectively, “**State Intellectual Property**”). Contractor may not use State Intellectual Property for any purpose other than as specified in this Contract. Upon expiration or termination of this Contract, Contractor shall return or destroy all State Intellectual Property and all copies thereof, and Contractor shall have no further right or license to such State Intellectual Property.

All Work Product shall belong exclusively to the State, with the State having the sole and exclusive right to apply for, obtain, register, hold and renew, in its own name and/or for its own benefit, all patents and copyrights, and all applications and registrations, renewals and continuations thereof and/or any and all other appropriate protection

“**Work Product**” means any tangible or intangible work product, creation, material, item or deliverable, documentation, information and/or other items created by Contractor, either solely or jointly with others, and which are developed, conceived of, prepared, procured, generated or produced by Contractor. Work Product may include writings, designs, drawings, photographs, reports, compilations, databases, or other documentation, whether or not protectable under Title 17 of the U.S. Code and whether or not patentable or otherwise protectable under Title 35 of the U.S. Code, that are developed, conceived of, prepared, arise, procured, generated or produced from State Information, whether as individual items or a combination of components. For the avoidance of doubt, Work Product shall not be deemed to include Contractor Intellectual Property.

(ii) Upon full payment to Contractor hereunder, and subject to the terms and conditions contained herein, Contractor hereby (i) assigns to State all rights in and to the Deliverables, except to the extent they include any Contractor Technology

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. Nothing herein shall entitle the State to pre-existing Contractor Technology.

Warranties. The Contractor represents, warrants and covenants that:

- (i) The Contractor has all requisite power and authority to execute, deliver and perform its obligations under this Contract and the execution, delivery and performance of this Contract by the Contractor has been duly authorized by the Contractor.
- (ii) There is no outstanding litigation, arbitrated matter or other dispute to which the Contractor is a party which, if decided unfavorably to the Contractor, would reasonably be expected to have a material adverse effect on the Contractor’s ability to fulfill its obligations under this Contract.
- (iii) The Contractor will comply with all laws applicable to its performance of the services and otherwise to the Contractor in connection with its obligations under this Contract.
- (iv) All deliverables will be free from material errors and shall perform in accordance with the specifications stated in the product documentation. The Contractor has adequate resources to fulfill its obligations under this Contract.

Virus Protection. Contractor warrants and represents that any time software is delivered to the State, whether delivered via electronic media or the internet, no portion of such software or the media upon which it is stored or delivered will have any type of software routine or other element which is designed to facilitate unauthorized access to or intrusion upon; or unrequested disabling or erasure of; or unauthorized interference with the operation of any hardware, software, data or peripheral equipment of or utilized by the State. Notwithstanding

the foregoing, Contractor assumes no responsibility for the State's negligence or failure to protect data from viruses, or any unintended modification, destruction or disclosure.

State Facilities. During the term of this Contract, the State shall make available to Contractor space in any State facility applicable to the Services, subject to the conditions that Contractor: (i) shall only use such space solely and exclusively for and in support of the Services; (ii) shall not use State facilities to provide goods or services to or for the benefit of any third party; (iii) shall comply with the leases, security, use and rules and agreements applicable to the State facilities; (iv) shall not use State facilities for any unlawful purpose; (v) shall comply with all policies and procedures governing access to and use of State facilities that are provided to Contractor in writing; (vi) instruct Contractor personnel not to photograph or record, duplicate, disclose, transmit or communicate any State information, materials, data or other items, tangible or intangible, obtained or available as a result of permitted use of State facilities; and (vii) return such space to the State in the same condition it was in at the commencement of this Contract, ordinary wear and tear excepted. State facilities will be made available to Contractor on an "AS IS, WHERE IS" basis, with no warranties whatsoever.

Access to State Data: For a fee within ten (10) business days of (a) a request by State and (b) upon request at the date of termination of this contract, the Contractor will make available to State a complete and secure (i.e. encrypted and appropriately authenticated) download file of State Data,. *Provided, however*, in the event the Contractor ceases conducting business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets or avails itself of or becomes subject to any proceeding under the Federal Bankruptcy Act or any statute of any state relating to insolvency or the protection of rights of creditors, the Contractor shall immediately return all State Data to State control; including, but not limited to, making all necessary access to applicable remote systems available to the State for purposes of downloading all State Data.

The Contractor's policies regarding the retrieval of data upon the termination of services have been made available to the State upon execution of this Contract under separate cover. The Contractor shall provide the State with not less than thirty (30) days advance written notice of any material amendment or modification of such policies.

Contractor Bankruptcy. Contractor acknowledges that if Contractor, as a debtor in possession, or a trustee in bankruptcy in a case under Section 365(n) of Title 11, United States Code (the "Bankruptcy Code"), rejects this Contract, the State may elect to retain its rights under this Contract as provided in Section 365(n) of the Bankruptcy Code. Upon written request of the State to Contractor or the Bankruptcy Trustee, Contractor or such Bankruptcy Trustee shall not interfere with the rights of the State as provided in this Contract, including the right to obtain the State Materials.

**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 actually performed as specified in Attachment A up to the maximum allowable amount specified in this agreement. State of Vermont payment terms are Net 30 days from date of invoice, payments against this contract will comply with the State’s payment terms. 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:

1. The total maximum payable under this contract will not exceed \$337,528. The cost associated with the software license and HEDIS Abstraction is \$327,528. The costs associated with Ad Hoc work shall not exceed \$5,000. The payment schedule for delivered products, or rates for services performed, and any additional reimbursements, are included in this Attachment. Should the maximum payable amount be reached under this contract, the Contractor shall be under no obligation to perform further services, deliver additional goods, or continue to license any software or products beyond what has already been paid for pursuant to the terms of this Agreement until the parties mutually agree in writing to lift the limit on the total maximum payable.

The State shall reimburse the Contractor for reasonable and necessary expenses incurred in performance of this contract not to exceed \$5,000 for the term of this contract, including costs incurred under Section 5 on page 11 and Section II.2.b on page 8 of this contract. All travel related expenses shall comply with current State employee reimbursement policies as identified in [Vermont Bulletin 3.4 Reimbursement for Travel related Expenses](#). Mileage reimbursement will be paid in accordance to current rates and formulas established by the State. No benefits or insurance will be reimbursed by the State.

<u>Fee Description</u>	<u>Invoice Date</u>	<u>Annual Fee</u>
Quality Intelligence	Annual Fee invoiced upon the start of each contract year.	\$168,278
Quality Intelligence Data Collection		Included
PQI Measure Set		Included
Medical Record Retrieval/HEDIS Measure Abstraction for 3,500 charts.	Annual Fee invoiced upon the start of each contract year	\$159,250
Expenses	As needed and pre-approved by State	\$5,000
Ad Hoc (billed at \$180/hour)	As requested by State	\$5,000
	Total	\$337,528

2. Base record retrieval and abstraction fees will be invoiced at the time of order and annually thereafter.
3. Prices set forth above do not include any applicable taxes. The State shall be responsible for payment to Contractor of any and all federal, excise, use or similar taxes that are levied by the Federal Government or state other than Vermont on the Services and fees under this Agreement.

4. Invoices should reference this contract number and be submitted to:

Business Office, Contracting Unit
Department of Vermont Health Access
312 Hurricane Lane, Suite 201
Williston, VT 054953

ATTACHMENT C
CUSTOMARY PROVISIONS FOR CONTRACTS AND GRANTS

1. **Entire Agreement.** This Agreement, whether in the form of a Contract, State Funded Grant, or Federally Funded Grant, 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 Agreement will be governed by the laws of the State of Vermont.
3. **Definitions:** For purposes of this Attachment, “Party” shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement.
4. **Appropriations:** If appropriations are insufficient to support this Agreement, the State may cancel on a date agreed to by the parties or upon the expiration or reduction of existing appropriation authority. In the case that this Agreement is funded in whole or in part by federal or other non-State funds, and in the event those funds become unavailable or reduced, the State may suspend or cancel this Agreement immediately, and the State shall have no obligation to fund this Agreement from State revenues.
5. **No Employee Benefits For Party:** The Party 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 Agreement. The Party 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 Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.
6. **Independence, Liability:** The Party will act in an independent capacity and not as officers or employees of the State.

The Party 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 Party or of any agent of the Party. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The Party 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 Agreement.

After a final judgment or settlement the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party 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 Party.

The Party 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 Party.

7. **Insurance:** Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverage is in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the state through the term of the Agreement. No warranty is made that the coverage and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party 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 Agreement, the Party 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

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

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

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Professional Liability: Before commencing work on this Agreement and throughout the term of this Agreement, the Party shall procure and maintain professional liability insurance for any and all services performed under this Agreement, with minimum coverage of **\$1,000,000** per occurrence, and **\$3,000,000** aggregate.

8. **Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all prior representations by the Party, including but not limited to bills, invoices, progress reports and other proofs of work.

9. **Requirement to Have a Single Audit:** In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, the Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a single audit is required for the prior fiscal year. If a single audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

A single audit is required if the subrecipient expends \$500,000 or more in federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a single audit is required.

10. Records Available for Audit: The Party 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 Agreement 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 Agreement.

11. Fair Employment Practices and Americans with Disabilities Act: Party agrees to comply with the requirement of Title 21V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement. Party further agrees to include this provision in all subcontracts.

12. Set Off: The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; 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.

13. Taxes Due to the State:

- a. Party 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. Party certifies under the pains and penalties of perjury that, as of the date the Agreement is signed, the Party 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. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party 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. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

14. Child Support: (Applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date the Agreement 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 Services and is in full compliance with that plan.

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

- 15. Sub-Agreements:** Party shall not assign, subcontract or sub grant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in subcontract or sub grant agreements a tax certification in accordance with paragraph 13 above.

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

- 16. No Gifts or Gratuities:** Party shall not give title or possession of anything of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.

- 17. Copies:** All written reports prepared under this Agreement will be printed using both sides of the paper.

- 18. Certification Regarding Debarment:** Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party'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.

Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at:

<http://bgs.vermont.gov/purchasing/debarment>

- 19. Certification Regarding Use of State Funds:** In the case that Party is an employer and this Agreement is a State Funded Grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.

**ATTACHMENT D
MODIFICATION OF CUSTOMARY PROVISIONS
OF
ATTACHMENT C OR ATTACHMENT F**

1. The insurance requirements contained in Attachment C, Section 7 are hereby modified:

Notwithstanding Section 7 of Attachment C, the following is hereby deleted from this Agreement:

Automotive Liability:

“Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.”

2. Requirements of Sections in Attachment C are hereby modified:

Notwithstanding Section 6 of Attachment C, the following is hereby deleted from this Agreement:

The Party 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 Party.

Notwithstanding Section 14 of Attachment C, the following is hereby deleted from this Agreement:

Child Support: (Applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date the Agreement 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 Services and is in full compliance with that plan.

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

3. Requirements of Sections in Attachment F are hereby modified:

Notwithstanding Section 10 of Attachment F, the first paragraph is deleted and replaced with the following:

“The Contractor shall grant the State of Vermont with a limited license to use Contractor’s proprietary business information processing and related Services during the term of this Agreement. All data, materials and information provided by the State shall remain the property of the State. Contractor is not performing any “work for hire” services to the State and all Contractor software, engine, tools, trade secrets listed as an Exhibit to this Agreement and any customization, modification, enhancements, and embodiments thereof shall remain the property of the Contractor.”

Approval:

Assistant Attorney General: _____

Date: _____

**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 **Department of Vermont Health Access** (“Covered Entity”) and **Verisk Health, Inc.** (“Business Associate”) as of December 13, 2013 (“Effective Date”). This Agreement supplements and is made a part of the contract/grant to which it is attached.

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”), as amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act (HITECH), and any associated federal rules and regulations.

The parties agree as follows:

1. Definitions. All capitalized terms used but not otherwise defined in this Agreement have the meanings set forth in 45 CFR Parts 160 and 164 as amended by HITECH and associated federal rules and regulations.

“Agent” means those person(s) who are agents(s) of the Business Associate, in accordance with the Federal common law of agency, as referenced in 45 CFR § 160.402(c).

“Breach” means the acquisition, access, use or disclosure of protected health information (PHI) which compromises the security or privacy of the PHI, except as excluded in the definition of Breach in 45 CFR § 164.402.

“Business Associate shall have the meaning given in 45 CFR § 160.103.

“Individual” includes a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

“Protected Health Information” or PHI shall have the meaning given in 45 CFR § 160.103, limited to the information created or received by Business Associate from or on behalf of Agency.

“Security Incident” means any known successful or unsuccessful attempt by an authorized or unauthorized individual to inappropriately use, disclose, modify, access, or destroy any information or interference with system operations in an information system.

“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.

“Subcontractor” means a person or organization to whom a Business Associate delegates a function, activity or service, other than in the capacity of a member of the workforce of the Business Associate. For purposes of this Agreement, the term Subcontractor includes Subgrantees.

2. Identification and Disclosure of Privacy and Security Offices. Business Associate and Subcontractors shall provide, within ten (10) days of the execution of this agreement, written notice to the Covered Entity’s contract/grant manager the names and contact information of both the HIPAA Privacy Officer

and HIPAA Security Officer. This information must be updated any time either of these contacts changes.

3. Permitted and Required Uses/Disclosures of PHI.

3.1 Except as limited in this Agreement, Business Associate may use or disclose PHI to perform Services, as specified in the underlying grant or contract with Covered Entity. The uses and disclosures of Business Associate are limited to the minimum necessary, to complete the tasks or to provide the services associated with the terms of the underlying agreement. 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.

3.2 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 and Subcontractors in accordance with Sections 9 and 17 or, (b) as otherwise permitted by Section 3.

3.3 Business Associate shall be directly liable under HIPAA for impermissible uses and disclosures of the PHI it handles on behalf of Covered Entity, and for impermissible uses and disclosures, by Business Associate's Subcontractor(s), of the PHI that Business Associate handles on behalf of Covered Entity and that it passes on to Subcontractors.

4. 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 Business Associate obtains reasonable written assurances via a written agreement 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 the Agreement requires the person or entity to notify Business Associate, within two (2) business days (who in turn will notify Covered Entity within two (2) business days after receiving notice of a Breach as specified in Section 6.1), in writing of any Breach of Unsecured PHI of which it is aware. Uses and disclosures of PHI for the purposes identified in Section 3 must be of the minimum amount of PHI necessary to accomplish such purposes.

5. Safeguards. Business Associate, its Agent(s) and Subcontractor(s) shall implement and use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for by this Agreement. With respect to any PHI that is maintained in or transmitted by electronic media, Business Associate or its Subcontractor(s) shall comply with 45 CFR sections 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards) and 164.316 (policies and procedures and documentation requirements). Business Associate or its Agent(s) and Subcontractor(s) shall identify in writing upon request from Covered Entity all of the safeguards that it uses to prevent impermissible uses or disclosures of PHI.

6. Documenting and Reporting Breaches.

6.1 Business Associate shall report to Covered Entity any Breach of Unsecured PHI, including Breaches reported to it by a Subcontractor, as soon as it (or any of its employees or agents) becomes aware of any such Breach, and in no case later than two (2) business days after it (or any of its

employees or agents) becomes aware of the Breach, except when a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security.

6.2 Business Associate shall provide Covered Entity with the names of the individuals whose Unsecured PHI has been, or is reasonably believed to have been, the subject of the Breach and any other available information that is required to be given to the affected individuals, as set forth in 45 CFR § 164.404(c), and, if requested by Covered Entity, information necessary for Covered Entity to investigate the impermissible use or disclosure. Business Associate shall continue to provide to Covered Entity information concerning the Breach as it becomes available to it. Business Associate shall require its Subcontractor(s) to agree to these same terms and conditions.

6.3 When Business Associate determines that an impermissible acquisition, use or disclosure of PHI by a member of its workforce is not a Breach, as that term is defined in 45 CFR § 164.402, and therefore does not necessitate notice to the impacted individual(s), it shall document its assessment of risk, conducted as set forth in 45 CFR § 402(2). When requested by Covered Entity, Business Associate shall make its risk assessments available to Covered Entity. It shall also provide Covered Entity with 1) the name of the person(s) making the assessment, 2) a brief summary of the facts, and 3) a brief statement of the reasons supporting the determination of low probability that the PHI had been compromised. When a breach is the responsibility of a member of its Subcontractor's workforce, Business Associate shall either 1) conduct its own risk assessment and draft a summary of the event and assessment or 2) require its Subcontractor to conduct the assessment and draft a summary of the event. In either case, Business Associate shall make these assessments and reports available to Covered Entity.

6.4 Business Associate shall require, by contract, a Subcontractor to report to Business Associate and Covered Entity any Breach of which the Subcontractor becomes aware, no later than two (2) business days after becomes aware of the Breach.

7. **Mitigation and Corrective Action.** Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to it of an impermissible use or disclosure of PHI, even if the impermissible use or disclosure does not constitute a Breach. Business Associate shall draft and carry out a plan of corrective action to address any incident of impermissible use or disclosure of PHI. If requested by Covered Entity, Business Associate shall make its mitigation and corrective action plans available to Covered Entity. Business Associate shall require a Subcontractor to agree to these same terms and conditions.

8. **Providing Notice of Breaches.**

8.1 If Covered Entity determines that an impermissible acquisition, access, use or disclosure of PHI for which one of Business Associate's employees or agents was responsible constitutes a Breach as defined in 45 CFR § 164.402, and if requested by Covered Entity, Business Associate shall provide notice to the individual(s) whose PHI has been the subject of the Breach. When requested to provide notice, Business Associate shall consult with Covered Entity about the timeliness, content and method of notice, and shall receive Covered Entity's approval concerning these elements. The cost of notice and related remedies shall be borne by Business Associate.

8.2 If Covered Entity or Business Associate determines that an impermissible acquisition, access, use or disclosure of PHI by a Subcontractor of Business Associate constitutes a Breach as defined in 45 CFR § 164.402, and if requested by Covered Entity or Business Associate, Subcontractor shall provide notice to the individual(s) whose PHI has been the subject of the Breach. When Covered Entity requests that Business Associate or its Subcontractor provide notice, Business Associate shall either 1) consult with Covered Entity about the specifics of the notice as set forth in section 8.1, above, or 2) require, by

contract, its Subcontractor to consult with Covered Entity about the specifics of the notice as set forth in section 8.1

8.3 The notice to affected individuals shall be provided as soon as reasonably possible and in no case later than 60 calendar days after Business Associate reported the Breach to Covered Entity.

8.4 The notice to affected individuals shall be written in plain language and shall include, to the extent possible, 1) a brief description of what happened, 2) a description of the types of Unsecured PHI that were involved in the Breach, 3) any steps individuals can take to protect themselves from potential harm resulting from the Breach, 4) a brief description of what the Business Associate is doing to investigate the Breach, to mitigate harm to individuals and to protect against further Breaches, and 5) contact procedures for individuals to ask questions or obtain additional information, as set forth in 45 CFR § 164.404(c).

8.5 Business Associate shall notify individuals of Breaches as specified in 45 CFR § 164.404(d) (methods of individual notice). In addition, when a Breach involves more than 500 residents of Vermont, Business Associate shall, if requested by Covered Entity, notify prominent media outlets serving Vermont, following the requirements set forth in 45 CFR § 164.406.

9. Agreements with Subcontractors. Business Associate shall enter into a Business Associate Agreement with any Subcontractor to whom it provides PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity in which the Subcontractor agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such PHI. Business Associate must enter into this Business Associate Agreement before any use by or disclosure of PHI to such agent. The written agreement must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of the agreement concerning the use or disclosure of PHI. Business Associate shall provide a copy of the Business Associate Agreement it enters into with a subcontractor to Covered Entity upon request. Business associate may not make any disclosure of PHI to any Subcontractor without prior written consent of Covered Entity.

10. 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. Within three (3) business days, Business Associate shall forward to Covered Entity for handling any request for access to PHI that Business Associate directly receives from an Individual.

11. 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. Within three (3) business days, Business Associate shall forward to Covered Entity for handling any request for amendment to PHI that Business Associate directly receives from an Individual.

12. 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. Within three (3) business days, Business Associate shall forward to

Covered Entity for handling any accounting request that Business Associate directly receives from an Individual.

13. 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.

14. Termination.

14.1 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 18.7.

14.2 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 the contract or grant without liability or penalty if Business Associate does not cure the breach within the time specified by Covered Entity; or (b) immediately terminate the contract or grant 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 the contract or grant, nor does it lessen Business Associate's responsibility for such breach or its duty to cure such breach.

15. Return/Destruction of PHI.

15.1 Business Associate in connection with the expiration or termination of the contract or grant shall return or destroy, at the discretion of the Covered Entity, all PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity pursuant to this contract or grant 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.

15.2 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. This shall also apply to all Agents and Subcontractors of Business Associate.

16. Penalties and 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 training regarding the use, confidentiality,

and security of PHI.

17. Security Rule Obligations. The following provisions of this section apply to the extent that Business Associate creates, receives, maintains or transmits Electronic PHI on behalf of Covered Entity.

17.1 Business Associate shall implement and use administrative, physical, and technical safeguards in compliance with 45 CFR sections 164.308, 164.310, and 164.312 with respect to 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.

17.2 Business Associate shall ensure that any Agent and Subcontractor to whom it provides Electronic PHI agrees in a written agreement 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 agreement before any use or disclosure of Electronic PHI by such Agent or Subcontractor. The written agreement must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of the agreement concerning the use or disclosure of Electronic PHI. Business Associate shall provide a copy of the written agreement to Covered Entity upon request. Business Associate may not make any disclosure of Electronic PHI to any Agent or Subcontractor without the prior written consent of Covered Entity.

17.3 Business Associate shall report in writing to Covered Entity any Security Incident pertaining to such Electronic PHI (whether involving Business Associate or an Agent or Subcontractor). Business Associate shall provide this written report as soon as it becomes aware of any such Security Incident, and in no case later than two (2) business days after it becomes aware of the incident. Business Associate shall provide Covered Entity with the information necessary for Covered Entity to investigate any such Security Incident.

17.4 Business Associate shall comply with any reasonable policies and procedures Covered Entity implements to obtain compliance under the Security Rule.

18. Miscellaneous.

18.1 In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the contract/grant, the terms of this Agreement shall govern with respect to its subject matter. Otherwise, the terms of the contract/grant continue in effect.

18.2 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.

18.3 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.

18.4 In addition to applicable Vermont law, the parties shall rely on applicable federal law (e.g., HIPAA, the Privacy Rule and Security Rule, and the HIPAA omnibus final rule) in construing the meaning and effect of this Agreement.

18.5 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.

18.6 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 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.

18.7 Business Associate is prohibited from directly or indirectly receiving any remuneration in exchange for an individual’s PHI. Business Associate will refrain from marketing activities that would violate HIPAA, including specifically Section 13406 of the HITECH Act. Reports or data containing the PHI may not be sold without Agency’s or the affected individual’s written consent.

18.8 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 14.2 and (b) the obligation of Business Associate to provide an accounting of disclosures as set forth in Section 11 survives the expiration or termination of this Agreement with respect to accounting requests, if any, made after such expiration or termination.

(Rev: 9/21/13)

ATTACHMENT F
AGENCY OF HUMAN SERVICES' CUSTOMARY CONTRACT PROVISIONS

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 a 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 United Way/Vermont 211. 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 Department 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 Department 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.

Federal Medicaid System Security Requirements Compliance: All contractors and subcontractors must provide a security plan, risk assessment, and security controls review document within three months of the start date of this agreement (and update it annually thereafter) to support audit compliance with 45CFR95.621 subpart F, *ADP (Automated Data Processing) System Security Requirements and Review Process*.
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. 08-048 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 in the performance of services connected with this agreement, who provides care, custody, treatment, transportation, 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 Protection Registry. (See 33 V.S.A. §4919(a)(3) & 33 V.S.A. §6911(c)(3)).
9. **Reporting of Abuse, Neglect, or Exploitation.** Consistent with provisions of 33 V.S.A. §4913(a) and §6903, any agent or employee of a Contractor who, in the performance of services connected with this agreement, has contact with clients or is a caregiver and who has reasonable cause to believe that a child or vulnerable adult has been abused or neglected as defined in Chapter 49 or abused, neglected, or exploited as defined in Chapter 69 of Title 33 V.S.A. shall make a report involving children to the Commissioner of the Department for Children and Families within 24 hours or a report involving vulnerable adults to the Division of Licensing and Protection at the Department of Disabilities, Aging, and Independent Living within 48 hours. This requirement applies except in those instances where particular roles and functions are exempt from reporting under state and federal law. Reports involving children shall contain the information required by 33 V.S.A. §4914. Reports involving vulnerable adults shall contain the information required by 33 V.S.A. §6904. The Contractor will ensure that its agents or employees receive training on the reporting of abuse or neglect to children and abuse, neglect or exploitation of vulnerable adults.

10. **Intellectual Property/Work Product Ownership.** All data, technical information, materials first 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 grant - shall be considered "work for hire" and remain the property of the State of Vermont, regardless of the state of completion - unless otherwise specified in this agreement. 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 first developed for the State, all 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, documentation and/or source codes developed.

The Contractor shall not sell or copyright a work product or item produced under this agreement 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. Nothing herein shall entitle the State to pre-existing Contractor's materials.

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. **Computing and Communication:** The Contractor shall select, in consultation with the Agency of Human Services' Information Technology unit, one of the approved methods for secure access to the State's systems and data, if required. Approved methods are based on the type of work performed by the Contractor as part of this agreement. Options include, but are not limited to:

1. Contractor's provision of certified computing equipment, peripherals and mobile devices, on a separate Contractor's network with separate internet access. The Agency of Human Services' accounts may or may not be provided.
2. State supplied and managed equipment and accounts to access state applications and data, including State issued active directory accounts and application specific accounts, which follow the National Institutes of Standards and Technology (NIST) security and the Health Insurance Portability & Accountability Act (HIPAA) standards.

The State will not supply e-mail accounts to the Contractor.

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.

The Contractor will also not refuse, withhold from or deny to any person the benefit of services, facilities, goods, privileges, advantages, or benefits of public accommodation on the basis of disability, race, creed, color, national origin, marital status, sex, sexual orientation or gender identity under Title 9 V.S.A. Chapter 139.

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.

APPENDIX I- REQUIRED FORMS

TASK ORDER FORM

Vendor Name:

Agreement Number:

Amount Requested for Approval:

Scope of Work to be Performed:

Budget:

Deliverables:

Approvals:

State of Vermont

Vendor

**Department of Vermont Health Access
Request for Approval to Subcontract**

Date of Request: _____

Original Contractor Name:	_____	Contract #:	_____
Address:	_____		
Phone Number:	_____		
Contact Person:	_____		
Agreement #:	_____	Signature:	_____

Subcontractor Name: _____
Address: _____
Phone Number: _____
Contact Person: _____
Scope of Subcontracted Services: _____

Is any portion of the work being outsourced outside of the United States? **YES** **NO**
(Note to Business Office: If Yes, do not proceed further with approval until reviewed with Finance & Mgmt)

Dollar Amount of Subcontracted Services: \$ _____
Date Range for Subcontracted Services: Start: _____ End: _____

DVHA Contact Person:	_____	Signature:	_____
Phone Number:	_____		

Business Office Review

Comments: _____

Approval: _____ **Title:** _____ **Date:** _____

Required: Contractor cannot subcontract until they receive this signed approval from the State of Vermont. On the reverse side of this form there is language that must be included by the contractor in all subcontracting agreements.

Language to be included from State of Vermont Bulletin 3.5 in all subcontracting agreements:

Set Off: The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; 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.

Taxes Due to the State:

- a. Party 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. Party certifies under the pains and penalties of perjury that, as of the date the Agreement is signed, the Party 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. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party 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. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

Child Support: (Applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date the Agreement is signed, he/she:

- d. is not under any obligation to pay child support; or
- e. is under such an obligation and is in good standing with respect to that obligation; or
- f. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

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

Sub-Agreements: Party shall not assign, subcontract or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above.

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