DVHA Routing Form

Revision Date 5/1/12

Type of Agreement: **Contract** Agreement #: **25194** Form of Agreement: **New** Amendment #:

Name of Recipient: **Blue Cross Blue Shield** Vendor #: **1984**

Program Manager : **Dana Houlihan** Phone #: **802-585-4140**

Agreement Manager: **Emily Trantum** Phone #: **802-879-5946**

Brief Explanation of Agreement: **Offering qualified health plans on the State of Vermont's federally-mandated health exchange known as Vermont Health Connect**

Start Date: **8/30/2013** End Date: **12/31/2014** Maximum Amount: **$0.00**

Amendments Only: Maximum Prior Amount: Percentage of Change:

Bid Process (Contracts Only): ☐ Standard ☐ Simplified ☒ Sole Source ☐ Statutory ☐ Master Contract SOW

Funding Source

Contents of Attached Packet

☒ AA-14
☒ Sole Source Memo
☐ Qualitative/Justification Memo
☒ Attachments A, B, C & F
☒ Attachment D - Modifications to C & F
☐ Attachment E - Business Associate Agreement
☐ Attachment G - Academic Research
☐ MOU
☒ Other: **Attachment H**

Reviewer		Reviewer Initials	Date In	Date Out
DVHA Grant & Contract Administrator				
DVHA BO	**Jill Gould**	J.G.		
DVHA Commissioner or Designee	**Mark Larson**	L.T.		
AHS Attorney General	**Jaye Johnson**	J.J.		
Following Approvals for Contracts Only:				
AHS CIO				
AHS Central Office	**Diane Nealy**	D.N.		
AHS Secretary	**Dixie Henry**	D.H.		

Vision Account Codes:

☐ FFATA Entry ☐ Grant Tracking Module Vision PO #: Initials & Date: Approval & B/C:

STATE OF VERMONT CONTRACT SUMMARY AND CERTIFICATION - - - - - - - - - - - Form AA-14 (8/22/11)

Note: All sections are required. Incomplete forms will be returned to department.

I. CONTRACT INFORMATION:

Agency/Department: AHS/ DVHA **Contract #:** 25194 **Amendment #:**

Vendor Name: Blue Cross Blue Shield VISION Vendor No: 1984

Vendor Address: PO Box 186, Montpelier, VT 05602

Starting Date: 8/30/2013 **Ending Date:** 12/31/2014 **Amendment Date:**

Summary of agreement or amendment: Offering qualified health plans on the State of Vermont's federally-mandated health exchange known as Vermont Health Connect.

II. FINANCIAL INFORMATION

Maximum Payable: $0.00 Prior Maximum: $ Prior Contract # (If Renewal):

Current Amendment: $ Cumulative amendments: $ % Cumulative Change: %

Business Unit(s): 3410; ; - [notes:] **VISION Account(s): 507600;**

II. PERFORMANCE INFORMATION

Does this Agreement include Performance Measures tied to Outcomes and/or financial reward/penalties? ☐ Yes ☒ No

Estimated Funding Split:	G-Fund %	S-Fund %	F-Fund %	GC-Fund %	Other %

III. PUBLIC COMPETITION

The agency has taken reasonable steps to control the price of the contract or procurement grant and to allow qualified organizations to compete for the work authorized by this contract. The agency has done this through:

☐ Standard bid or RFP ☐ Simplified Bid ☒ Sole Sourced ☐ Qualification Based Selection ☐ Statutory

IV. TYPE OF AGREEMENT & PERFORMANCE INFORMATION

Check all that apply: ☐ Service ☒ Personal Service ☐ Architect/Engineer ☐ Construction ☐ Marketing ☐ Information Technology ☐ Other, describe:

V. SUITABILITY FOR CONTRACT FOR SERVICE

☒ Yes ☐ No ☐ n/a If this is a Personal Service contract, does this agreement meet all 3 parts of the "ABC" definition of independent contractor? (See Bulletin 3.5) If NO, then contractor must be paid through Payroll

VI. CONTRACTING PLAN APPLICABLE:

Are one or more contract or terms & conditions provisions waived under a pre-approved Contracting Plan? ☐ Yes ☒ No

VII. CONFLICT OF INTEREST

By signing below, I certify that no person able to control or influence award of this contract had a pecuniary interest in its award or performance, either personally or through a member of his or her household, family, or business.

☐ Yes ☒ No Is there an "appearance" of a conflict of interest so that a reasonable person may conclude that this party was selected for improper reasons: (If yes, explain)

VIII. PRIOR APPROVALS REQUIRED OR REQUESTED

☒ Yes ☐ No Agreement must be approved by the Attorney General under 3 VSA §311(a)(10) (personal service)

☒ Yes ☐ No I request the Attorney General review this agreement as to form
No, already performed by in-house AAG or counsel: _____ (initial)

☐ Yes ☒ No Agreement must be approved by the Comm. of DII; for IT hardware, software or services and Telecommunications over $100,000

☐ Yes ☒ No Agreement must be approved by the CMO; for Marketing services over $15,000

☐ Yes ☒ No Agreement must be approved by Comm. Human Resources (privatization and retiree contracts)

☒ Yes ☐ No Agreement must be approved by the Secretary of Administration

IX. AGENCY/DEPARTMENT HEAD CERTIFICATION; APPROVAL D.N. E.B.

I have made reasonable inquiry as to the accuracy of the above information:

Date	Agency / Department Head	Date	Agency Secretary or Other Department Head (if required)
	E-SIGNED by Lindsey Tucker on 2013-08-28 19:36:15 GMT		E-SIGNED by Dixie Henry on 2013-08-29 14:39:09 GMT

Date	Approval by Attorney General	Date	Approved by Commissioner of Human Resources
	E-SIGNED by Jaye Johnson on 2013-08-29 12:45:16 GMT		E-SIGNED by Michael Clasen on 2013-08-29 18:50:23 GMT

Date	CIO	Date	CMO	Date	Secretary of Administration

VERMONT

State of Vermont
Department of Vermont Health Access
312 Hurricane Lane, Suite 201
Williston VT 05495-2807
dvha.vermont.gov

Agency of Human Services
[Phone] 802-879-5900
[Fax] 802-879-5651

MEMORANDUM

TO: Jeb Spaulding, Secretary of Administration M.C.
FROM: Mark Larson, Commissioner of DVHA L.T.
DATE: August 15, 2013
RE: Vermont Health Connect No Cost Carrier Contract

The Department of Vermont Health Access (DVHA) is contracting with Blue Cross Blue Shield of Vermont to offer certified qualified health plans for sale on Vermont Health Connect. This is a no-cost personal services contract.

In March 2010, the Patient Protection and Affordable Care Act of 2010 (ACA) was enacted by Congress and signed into law by the President of the United States. The ACA authorizes the creation of state-based and operated Health Benefit Exchanges that will allow consumers to access and evaluate health insurance options from commercial insurers, determine eligibility for federal subsidies, and enroll in the health insurance coverage of their choice.

The Vermont Health Connect supports DVHA's mission to improve access to health care and increase coverage by offering the means for all Vermonters to compare information on available health insurance plans and public health coverage, enroll in plans or public coverage, and receive tax credits and cost-sharing subsidies. VHC used the contract process to ensure compliance with these goals, and to bind selected the qualified health plans and qualified stand-alone dental plans to the requirements for offering on VHC.

This agreement is a no-cost contract and has no cost obligation on the part of the State. This contract complies with all mandatory provisions of AOA Bulletin 3.5. DVHA looks forward to approval of this contract.

1. **Parties.** This is a Contract for personal services between the State of Vermont, Department of Vermont Health Access (hereafter called "State"), and Blue Cross Blue Shield of Vermont, with a principal place of business in Berlin, Vermont (hereafter called "Contractor"). The Contractor's form of business organization is a non-profit corporation providing health insurance. 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 personal services generally on the subject of offering qualified health [and dental] plans on the State of Vermont's federally-mandated health exchange known as Vermont Health Connect ("VHC" or the "Exchange"). Detailed services to be provided by the Contractor are described in Attachment A.

3. **Consideration.** In consideration of the services to be performed by Contractor, the State agrees to grant Contractor access to Vermont's exclusive market of Qualified Individuals and Qualified Employers (as defined herein), through VHC.

4. **Contract Term.** The period of Contractor's performance shall begin on August 30, 2013 and end on December 31, 2014. This Contract may be renewed for one additional one year period on such terms as the parties may agree, as further described in Section 2.08 of Attachment A.

5. **Prior Approvals.** If approval by the Attorney General's Office, Secretary of Administration, DII CIO/Commissioner, or Chief Marketing Officer is required, (under current law, bulletins, and interpretations), neither this Contract nor any amendment to it is binding until it has been approved by such persons.

   - Approval by the Attorney General's Office is required.
   - Approval by the Secretary of Administration is required.
   - Approval by the CIO/Commissioner of DII is not required.

6. **Amendment.** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.

7. **Cancellation.** Either party may terminate this contract in accordance with Attachment A, Article 9.

8. **Attachments.** This contract consists of 41 pages including the following attachments, which are incorporated herein:

   - Attachment A: Specifications Of Work To Be Performed
   - Exhibit 1: "Contractor Blue Cross Blue Shield: Selected Qualified Health Plans"
   - Attachment B – Payment Provisions
   - Attachment C: Customary Provisions for Contract and Grants
   - Attachment D: Modification of Customary Provisions of Attachment C or Attachment F
   - Attachment F: Agency of Human Services' Customary Contract Provisions
   - Attachment H: Business Partnership Agreement
   - Attachment I: State Premium Assistance

   The order of precedence of documents shall be as follows:
   1). This document

2). Attachment D (if any)
3). Attachment C
4). Attachment A
5). Attachment E (if any)
6). Attachment F
7). Other Attachments (if any)

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

BY THE STATE OF VERMONT:		**BY THE CONTRACTOR:**	
E-SIGNED by Lindsey Tucker on 2013-09-03 19:04:32 GMT		E-SIGNED by Don George on 2013-09-03 18:57:47 GMT	
MARK LARSON, COMMISSIONER	DATE	DON C. GEORGE, PRESIDENT AND CEO	DATE

ATTACHMENT A
SPECIFICATIONS OF WORK TO BE PERFORMED

Article 1. Definitions

Except as otherwise set forth herein, capitalized terms used in the Contract shall have the meaning set forth below.

Affordable Care Act ("ACA") means the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), pertaining to the federal mandate to render health insurance coverage widely available to the public, (as any of these or existing acts or future acts may be amended from time to time).

Agent or broker means a person or entity licensed by the State as an insurance producer.

Advance Premium Tax Credit means the advanced tax credit created by the ACA, which takes the form of a Premium subsidy for eligible individuals who purchase a QHP through the Exchange. The Advance Premium Tax Credit shall be paid directly from the US Government to on behalf of an Eligible Individual in order to reduce the Individual's Premiums.

American Indian or Alaskan Native means American Indian or Alaskan Native as defined by section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d)

Blueprint for Health or Blueprint means the State of Vermont's program for integrating a system of health care for patients, improving the health of the overall population, and improving control over health care costs by promoting health maintenance, prevention, and care coordination and management.

Covered Services means the Health Care Services that are medically necessary services covered under the applicable QHP and described in any certificate, agreement or contract issued to an Enrollee setting out the coverage to which the Enrollee is entitled.

DFR means the State of Vermont Department of Financial Regulation.

Premium Due Date means the date each month on which the Premium for the previous month's insurance coverage is due.

Employee shall have the meaning of "qualified employee" set forth in 45 C.F.R. 155.20.

Employer shall have the meaning of "qualified employer" set forth in 33 V.S.A. §§ 1802(5) and 1804.

Enrolled means the point at which an individual is covered for benefits under an individual or group QHP (that is, when coverage becomes effective), without regard to when the individual may have completed or filed any forms that are required in order to become covered under the QHP.

Enrollee means Qualified Individual or a Qualified Employee enrolled in a QHP offered through the Exchange.

Enrollee Material means any information Contractor intends to distribute to Qualified Individuals, Qualified Employers, Qualified Employees, Enrollees and prospective enrollees including but not limited to, disclosure

forms, Enrollee newsletter content that references VHC, new Enrollees materials, identification cards, advertising that references VHC, materials regarding coverage in QHP's offered on VHC, but shall not include explanations of benefits or coverage, or claims related documents.

Family Member shall have the meaning of "Family Member" set forth in 26 U.S.C. § 36B(d)(1).

Grace Period means that period of time specified by the Contractor following the premium due date during which coverage remains in force and an Enrollee or Employer may pay the Premium without penalty or termination of coverage. Individuals and Employers who fail to pay their Premiums by the due date and who enter a Grace Period must pay the entire outstanding Premium(s) and pay any Premium which will become due by the end of the specified Grace Period in order to maintain coverage.

Health Care Record means all written and recorded health care information about an individual maintained by any person who maintains health care information for any lawful purpose.

Health Care Services means any and all medical services and supplies, see Covered Services.

HHS means the U.S. Department of Health and Human Services.

Health Insurance Issuer or Issuer means an insurance company, insurance service, or insurance organization as defined in 8 V.S.A. §3301.

Insurance Industry Regulations means the statutes, rules and regulations governing the business of VHC and any of the Services to be provided by Contractor under this Contract and the QHPs, including, but not limited to the ACA, 33 V.S.A. Chapter 18, subchapter 1, 8 V.S.A. Chapter 107, and such other statutes, rules and regulations that otherwise govern the Services to be provided by Contractor hereunder and under the QHPs, including, but not limited to, the statutes, rules and regulations of any compliance regulations promulgated under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, Public Law 111-5 ("HITECH"), and regulations and guidance issued pursuant to HIPAA and/or HITECH, and such guidance that may be provided by the Centers for Medicare & Medicaid Services ("CMS") from time to time.

IVR means interactive voice response program that allows customers to interact with Contractor's host system via telephone or voice recognition.

Laws means any and all federal (national), state, municipal and/or local laws, regulations, rules, judicial decrees, decisions and judgments, executive and government orders and ordinances, including any and all directives of legislative bodies, unless the context clearly requires otherwise, shall include the Laws of each and every jurisdiction applicable to the State, the Contractor, this Contract, the QHPs and the performance of Services. Specifically, Laws shall include the Insurance Industry Regulations.

Medicaid means the program of medical care coverage set forth in Title XIX of the Social Security Act and the regulations issued pursuant thereto or as thereafter amended

Medicare means the program of medical care coverage set forth in Title XVIII of the Social Security Act and the regulations issued pursuant thereto or as thereafter as amended. 33 V.S.A. §6701

Navigators means then individuals or entities selected and contracted with by the State to assist individuals and employers in eligibility and enrollment in QHPs offered on the Exchange or public programs.

Open Enrollment Period or Open Enrollment means the annual period during which a Qualified Individual may enroll or change coverage in a QHP through VHC.

Personally Identifiable Information (PII) means, for purposes of Attachment A, an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted or protected by another method that renders them unreadable or unusable by unauthorized persons: i) Social Security number; (ii) Motor vehicle operator's license number or non-driver identification card number; (iii) Financial account number or credit or debit card number, if circumstances exist in which the number could be used without additional identifying information, access codes, or passwords; (iv) Account passwords or personal identification numbers or other access codes for a financial account. PII does not mean publicly available information that is lawfully made available to the general public from federal, state, or local government records in accordance with 9 VSA 2430.

Plan Year means the calendar year period during which the Contractor's QHP provides coverage for health benefits.

Premium means the dollar amount necessary to effectuate and maintain coverage payable to the Contractor by the Enrollee, Employer, or Employee, plus Advance Premium Tax Credits, and State Premium Assistance if applicable.

Premium Rate means the monthly premium due during a Plan Year, as set forth in Exhibit 1.

Protected Health Information or PHI shall have the meaning set forth in Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA").

Provider means a licensed health care facility or person, partnership, or corporation, licensed or certified or authorized by law to provide professional health care service in the State of Vermont.

Qualified Employer means, through December 31, 2015, an entity which employed an average of not more than 50 Employees on working days during the preceding calendar year; the term "Qualified Employer" shall include self-employed persons to the extent permitted under the ACA. Until January 2016, calculation of the number of Employees of a Qualified Employer shall not include a part-time Employee who works fewer than 30 hours per week or a seasonal worker as defined in 26 U.S.C. § 4980H(c)(2)(B).

Qualified Health Plan or QHP means the health benefit plan or plans set forth in Exhibit 1 to this Attachment A.

Qualified Individual means an individual, including a minor, who is a Vermont resident and, at the time of enrollment: (A) is not incarcerated, or is only incarcerated awaiting disposition of charges; and (B) is, or is reasonably expected to be during the time of enrollment, a citizen or national of the United States or an immigrant lawfully present in the United States as defined by federal law.

Run-Out Claims means the claims presented and adjudicated after the end of a specified time period where the Health Care Service was provided before the end of the specified time period.

Services means the services provided by Contractor pursuant to this Contract.

Special Enrollment Period means the period during which a Qualified Individual or Enrollee who experiences legally defined qualifying events may enroll in, or change enrollment in, a QHP through VHC outside of the initial and annual Open Enrollment Period.

State Cost Sharing Assistance means the State-administered subsidy which may be offered to Qualified Individuals who are Enrolled in a QHP for out-of pocket costs and which is payable directly to the QHP in which they are Enrolled.

State Premium Assistance means the State-administered subsidy, which may be offered to Qualified Individuals who are enrolled in a QHP payable toward their Premiums directly to the Contractor that has issued the QHP in which they are Enrolled.

Trading Partner Agreement – Electronic Health Care Transactions (TPA) shall mean that Trading Partner Agreement entered into between the Contractor and the State by September 16, 2013, relating to the Contractor's provision of the Services.

Article 2. Organization; Relationship of the Parties

2.01 Purpose
The Contract shall define Contractor's responsibilities related to offering approved QHPs for sale on VHC.

2.02 Service Delivery Mechanisms.
Contractor acknowledges the State operates in a business environment characterized by constant change, and the performance of Services may require the continued and dynamic setting of priorities based on changing business requirements, transactions and operations from time to time as may be communicated to Contractor by the State (subject to any confidentiality and contractual restrictions by which the State may be bound), at any time and from time to time during the term of this Contract, and necessitated by changes in the Insurance Industry Regulations or otherwise, but in all events subject to amendment of this Contract. Notwithstanding the above, nothing herein shall be deemed to require Contractor to violate any Laws, and if, during the course of the term of this Contract, there is a change in Law that requires modifying, altering, eliminating, diminishing or otherwise making any substantive change to this Contract, the provisions of Section 6 of the Standard State Contract (Amendment), shall control.

2.03 Role of Contractor
Contractor shall offer for sale each of the QHPs set forth in Exhibit 1 to this Attachment A, as the same may be amended, to Qualified Employers and Qualified Individuals, at the rates specified therein, for each Plan Year of this Contract. Contractor agrees to provide and shall perform the Services described in this Agreement in accordance with and subject to the terms and conditions set forth in this Agreement, including in compliance with all applicable Laws and Insurance Industry Regulations.

2.04 Transition between Medicaid and VHC
The State and Contractor shall cooperate toward ensuring the seamless transition of Qualified Individuals between the State's Medicaid programs and other governmental health care programs and the QHPs. Contractor shall be available for consultation with the State to discuss the development of enrollment eligibility criteria and implementation of QHP enrollment, taking into account inter-governmental agency agreements and/or other Laws, CMS guidance and State program instructions, in order to transfer coverage between QHPs and other sources of coverage as seamlessly as possible for each Qualified Individual. Both parties acknowledge such transitions will regularly occur and agree to use their good faith efforts to minimize disruptions in access to Health Care Services and health care coverage, and take all steps possible to provide a positive customer service experience. State understands Contractor is not a Medicaid provider.

2.05 Coordination and Cooperation
2.05.1. State's Support Responsibilities.

The State recognizes that the successful delivery of customer service to Enrollees depends on a successful coordination with Contractor. The State shall make available the following programs and resources for use by Contractor:

(a) Education, marketing and outreach programs that will seek to increase enrollment in the QHPs and foster consumer choice of QHPs offered;
(b) A standard interface provided through which Contractor may electronically accept payment to effectuate coverage, the details of which shall be more fully set forth in the Trading Partner Agreement;
(c) A dedicated named team member responsible for working with Contractor to resolve any and all issues that arise from the implementation of VHC;
(d) Joint marketing activities of VHC, Contractor and other Health Insurance Issuers designed to drive awareness and enrollment in VHC, with marketing plans; and
(e) Customer service support that may include substantially extended customer service hours during Open Enrollment Periods to assist Contractor, Qualified Individuals and Qualified Employers.
(f) Successfully conduct end to end testing with Contractor in advance of systems upgrades that could impact the accuracy or completeness of enrollment information transmitted to Contractor by the state.

2.05.2. Contractor's Support Responsibilities. In order to further a collaborative marketing and enrollment effort with the State, Contractor shall:

(a) Provide a link to the VHC approved individual subsidy calculator and the small business estimator tools on Contractors website;
(b) In consultation with the State, educate navigators, the public, agents and/or brokers about the Qualified Individual and Qualified Employer plans offered on VHC;
(c) Provide education and awareness to individuals and employers regarding eligibility for Advance Premium Tax Credits, State Premium Assistance and State Cost-Sharing Assistance programs, QHP offerings and benefits available through VHC in connection with outreach to Contractor's existing members, as relevant to VHC, and consistent with policy goals and messaging as communicated to Contractor by the State;
(d) Continue to work with State to comply with State financial interface requirements at its own cost in order to allow a third party premium processor to transfer Premiums through a VHC payment gateway directly into Contractor's account;
(e) Successfully test interfaces with VHC, or be prepared to complete successful interface tests by dates established by the State.

2.06 Primary Contact

The State and Contractor will each designate a named liaison to serve as the primary contact person to coordinate and cooperate with the other party with respect to the performance of this Contract. The liaison shall be available, and/or shall make other personnel available, to the other party at such times and to such extent as is reasonably required to fulfill duties under this Contract. The liaison is responsible for reporting on and coordinating implementation efforts. Contractor's named liaison shall: (i) be a senior employee, with the information, authority and resources available to cause Contractor to properly discharge its responsibilities to the State required hereunder and (ii) have responsibility for the State's customer satisfaction and authority to manage resolution of issues raised by the State. If practicable, the State or Contractor shall provide fourteen (14) days' notice, to the other party of any staffing changes that may result in changes to the liaison.

2.07 Evaluation

The performance by Contractor with respect to fulfillment of its obligations set forth herein shall be evaluated by the State on an ongoing basis, including, but not limited to, ongoing compliance monitoring and evaluation of performance as a factor in Contract renewal negotiations. As appropriate, the State may refer matters of concern to DFR for further review and formal action. The parties acknowledge that the State and DFR may

share information regarding the performance of this Contract as appropriate.

2.08 Renewal/Non-renewal
The parties acknowledge that applicable Laws require the amendment of the QHPs for the 2014-2015 Plan Year, with such amendment to be effective January 1, 2015. Failure to have a mutually agreed, amended QHPs for the 2014-2015 Plan Year by August 31, 2014 shall entitle the State to terminate this Contract in its entirety, effective January 1, 2015, subject to the run-out terms set forth herein. The parties further agree to negotiate in good faith to amend this Contract as reasonably necessary to ensure the highest quality individual experience with VHC. The parties further acknowledge that, from time-to-time, in its sole discretion, the State may issue a request for proposals to enlist additional contractors or to seek new product features to offer on VHC.

Article 3. State Responsibilities

3.01 General
The State is approved by HHS to operate VHC, and shall perform its duties in accordance with the terms and conditions of this Contract and applicable Laws.

3.02 Eligibility
The State shall be responsible for determining the eligibility of Eligible Individuals and Eligible Employers for participation in VHC. The State and the State of Vermont Agency of Human Services, Department for Children and Families, Economic Services Division shall maintain processes sufficient to make the eligibility and enrollment decisions regarding VHC and other Vermont health care programs.

3.03 Tax Credits and Subsidies
The State shall be responsible for the initial determination of applicable Advance Premium Tax Credits and for the final determination of State Premium Assistance and State Cost-Sharing Assistance. Contractor shall accept amounts determined by the State and communicated by the State in accordance with the applicable terms of the Trading Partner Agreement. The State shall be responsible for accurately and timely communicating such federal tax credits amounts, including APTC, to the federal government and shall work with Contractor to timely correct any errors made regarding such calculation or communication. Subject to applicable law and other applicable terms of this Contract, Contractor shall accept tax credit and subsidy amounts determined by the State and communicated by the State in accordance with the applicable terms of the Trading Partner Agreement.

Article 4. Contractor's Responsibilities

4.01 Qualified Health Plans
Contractor shall offer those QHPs identified in Exhibit 1 for the Plan Year in accordance with this Agreement. As set forth in Section 2.08 above, Exhibit 1 shall be amended on an annual basis.

4.02 Certification
Contractor shall maintain compliance with standards required by DFR for certification. Contractor acknowledges that failure to abide by applicable standards required for certification may result in termination for cause of this Contract.

4.03 Licensure and Good Standing
Contractor shall be duly licensed by DFR and in good standing to offer health insurance coverage through the QHPs offered under this Contract. Contractor acknowledges that failure to maintain its license may result in termination for cause of this Contract.

Contractor shall ensure that no director, officer, partner, or has an employee, consultant or subcontractor providing Services under this Contract who is, or has been: (A) excluded, debarred, or suspended from participating in any federally funded health care program, (B) suspended or debarred from participation in any state contract or procurement process, or (C) convicted of a felony or misdemeanor (or entered a plea of *nolo contendere*) related to a crime or violation involving the acquisition or dispersal of funds or delivery of Health Care Services to beneficiaries of any state or federal health care program.

4.04 Benefit Design

The State reserves the right to determine the benefit designs which best serve the citizens of the State of Vermont. Contractor shall offer on VHC only those products set forth in Exhibit 1 at the Premium rates set forth in Exhibit 1, and the same may be amended on an annual basis in accordance with Section 2.08 hereof.

4.05 Participating Provider Directory

Contractor shall make its Provider directory electronically available to the State in accordance with applicable Laws. Contractor shall make a hard copy of its Provider directory available to Qualified Individuals upon request, and in accordance with applicable Laws. Contractor's Provider directory shall include either a Provider National Provider Identifier or unique Provider identifier for inclusion on the State's enrollment transaction files.

4.06 Essential Community Providers

Contractor shall maintain a network compliant with all applicable Laws, that includes a sufficient geographic distribution of essential community providers ("ECP".)

4.07 Forms and Notices.

Contractor shall provide forms and notices to applicants and Enrollees in plain language and in a manner that is accessible and timely to individuals (1) living with disabilities, including accessible web sites and the provision of auxiliary aids and services at no cost to the individual in accordance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act, and as required by federal law, (2) who are limited English proficient through the provision of language services at no cost to the individual. Such language services may include, if applicable, (i) oral interpretation, (ii) written translations; and (iii) taglines in non-English languages indicating the availability of language services. Contractor shall inform individuals of the availability of the services described in this Section and otherwise comply with notice requirements imposed under applicable Laws.

4.08 Transparency

4.08.1 Contractor shall provide in accordance with federal timeline, the State and Enrollees with information reasonably necessary to provide transparency in Contractor's coverage, including but not limited to;

(a) Claims payment policies and practices;
(b) Periodic financial disclosures;
(c) Data on enrollment;
(d) Data on disenrollment;
(e) Data on the number of claims that are denied;
(f) Data on rating practices;
(g) Information on cost-sharing and payments with respect to any out-of-network coverage; and
(h) Information on enrollee rights under title I of the Affordable Care Act,

4.08.2 The Contractor must submit, in an accurate and timely manner, to be determined by HHS, the information described in 4.08.1 to the State, HHS and DFR, and make the information described in paragraph (a) of 4.08.1 available to the public.

4.09 State Premium and Cost Sharing Assistance

Contractor must participate in any and all applicable State and federal premium subsidy and cost-sharing reduction programs, in accordance with Attachment I.

In order to receive cost sharing assistance, Contractor must provide the allocation of the rate and expected claims costs for: (1) the plan for Essential Health Benefits coverage, excluding abortion services, and (2) any other services or benefits. The State will multiply the monthly expected allowed claims costs for the Silver Plan set forth in Exhibit 1 to this Attachment A, by the difference in increased Actuarial Value percentage for State Cost Sharing Assistance to estimate the difference in cost sharing between the standard plan or federal plan variation and Vermont's plan variation. The resulting number provides a standardized per Enrollee per month of the value of the cost-sharing assistance. The State will multiply this number by the number of eligible Enrollees in the plan variation to arrive at the total advanced payment that will be provided to Contractor for each plan variation of each QHP each month.

4.10 Cost-Share Credit

If the State notifies Contractor of an Enrollee's change in QHP, then Contractor must enroll the individual in the applicable QHP in accordance with the effective date of eligibility that is provided by the State and as detailed in the Trading Partner Agreement. Contractor must ensure that any cost sharing paid by the individual under the Contractors product is accounted for in the calculation of the deductibles and annual limitations on cost sharing in a new QHP within the same calendar year and shall resume accumulators. However, Contractor shall not be required to credit cost-sharing when a person moves from the individual market to the group market or when the individual moves from another contractor's products back to Contractor products. Although if an individual moves back into the individual market before the end of the calendar year, Contractor shall credit such cost-sharing previously earned in Contractor's products. Contractor shall apply such credit at the subscriber level, meaning that if a dependent on a QHP moves to another QHP as a dependent of a different subscriber, the cost share earned by that dependent shall not credit to the new mid-year QHP.

The State and Contractor shall reconcile State Cost-Sharing Assistance consistent with the federal reconciliation process including reconciliation methodology, timing, data reporting requirements and any other federal requirements for reconciliation of the State Cost Sharing Assistance. The State and Contractor shall use best efforts to ensure reconciliation is efficient.

4.11 Payment Reform Pilot Participation

Contractor agrees to participate in good faith in State health care payment reform processes, which seek to design and develop payment reform and payment reform pilot projects approved by the State of Vermont Green Mountain Care Board.

4.12 Customer Service

The parties agree that superior customer service is an utmost priority and both parties commit to investing resources to meet the needs of individuals interfacing with VHC. The State and Contractor shall cooperate to meet the needs of prospective enrollees and Enrollees. The parties acknowledge that service levels may be difficult to meet during the initial implementation and agree to work together to minimize negative impact on prospective enrollees and Enrollees.

4.13 Standards for Call Centers

Contractor shall report to State on a monthly basis the following;

(a) Total offered calls
(b) Percentage of calls abandoned in the IVR
(c) Percentage of calls abandoned while in queue waiting for an agent
(d) Percentage of calls answered;
  (i) Within 30 seconds after leaving IVR
  (ii) Within 45 seconds after leaving IVR
  (iii) Within 60 seconds after leaving IVR
  (iv) Within 90 seconds after leaving IVR
  (v) After 120 seconds or more after leaving IVR

State and Contractor's comprehensive Disaster Recovery Plans (DRP) plan shall include plans to be able to receive calls within four hours of a system outage for any reason, including; but not limited to, a power outage, natural disaster, regional pandemic or human-error related outage. At the State's request, Contractor shall meet with the State to review its DRP. Contractor shall provide the State with updates to the DRP as such updates occur.

Contractor shall continue to work with State to create a phone "menu" that offers various service type options with automatic transfers to the appropriate Contractor, VHC or third party payment processor phone line.

4.14 Compliance Programs

(a) Fraud, Waste and Abuse; Ethical Conduct. Contractor shall maintain and enforce policies, procedures, processes, systems and internal controls (i) to reduce fraud, waste and abuse, and (ii) to enhance compliance with applicable Laws in connection with the performance of Contractor's obligations under this Contract.
(b) The parties acknowledge that the State shall be responsible for Enrollee fraud prevention and detection relating to Enrollee eligibility. Contractor will cooperate to support the State in its efforts in this area.
(c) Contractor shall maintain an effective compliance program that meets the requirements of applicable Laws. Contractor shall provide evidence of such compliance program as reasonably requested by the State. Contractor shall timely communicate to the State any material concerns identified by Contractor related to material regulatory compliance issues.
(d) On an annual basis, starting in 2015, Contractor shall provide the State with a description of its fraud, waste and abuse detection and prevention efforts for previous calendar year, and report total moneys recovered or savings realized by Contractor for Enrollees in the most recent 12-month period in relation to claims paid pursuant to this Contract, no later than February 15 of each year. This description shall include an overview of fraud and abuse detection and prevention program activities conducted by Contractor, including a summary of key findings and the development, implementation and enforcement of any corrective action plans for changing, upgrading, or improving these programs.
(e) Contractor shall maintain and enforce a code of ethical conduct that shall be made available to the public through posting on Contractor's website.

4.15 Enrollment and Eligibility

The State shall assist Qualified Individuals, and Qualified Employers by facilitating enrollment of qualified Employees in QHPs. All specified Employees of Qualified Employers, and their Family Members may obtain coverage on VHC as permitted by State and Federal laws, rules and regulations.

(a) Acceptance of Enrollment. Contractor shall accept enrollments as specified by the State and communicated consistent with the Trading Partner Agreement between the parties.
(c) Enrollment Periods. Subject to 4.17 below, Contractor shall effectuate coverage effective dates as directed by the State consistent with the Trading Partner Agreement between the parties. The State shall allow enrollment through VHC consistent with applicable state and federal laws. Contractor shall not be

liable for the State's enrollment errors. To the extent Contractor fails to accurately implement an enrollment as instructed by the State, the State shall not be liable for such error. Upon discovery of Contractor's error, Contractor shall take all necessary steps to attempt to correct the enrollment as if the error had not occurred. The Contractor and State contract liaisons, or their designees, shall work collaboratively in such efforts. The parties acknowledge that at initial implementation, a high volume of errors may occur and both parties agree to work collaboratively to mitigate the impacts of such errors on effected individuals.

4.16 Enrollment: Commencement of Coverage

(a) As more fully described in the Trading Partner Agreement between the parties, the State shall (i) notify Contractor regarding each eligible applicant who has completed the application process for enrollment and selected enrollment in a QHP of Contractor, and (ii) transmit information required for Contractor to enroll the applicant. Contractor shall ensure a coverage effective date for the Enrollee as specified by the State. Enrollments shall be effective as of the date specified by the State as described in the Trading Partner Agreement and consistent with applicable state and federal law. The State shall require payment of one hundred percent (100%) of the entire first month premium to be received by State in accordance with the published VHC Enrollment & Billing Timelines.

(b) The US Government shall perform the administration of advance payments of the Advance Premium Tax Credits. The State shall administer the State Premium Assistance and State Cost Sharing Assistance through VHC. The cancellation or termination of coverage in the event of nonpayment or partial payment of an initial premium shall be in accordance with the terms of the Trading Partner Agreement.

(c) The State and Contractor shall coordinate and cooperate with each other to the extent necessary during the application process to ensure the timely and accurate enrollment of individuals and employees through VHC. The State and Contractor shall provide reasonable support to each other during the enrollment process. The parties acknowledge the State is solely responsible for processing applications and making all eligibility determinations.

4.17 Enrollment: Termination of Coverage

(a) Contractor shall effectuate terminations of coverage for nonpayment, at its own expense, consistent with state and federal laws. Such terminations shall also be consistent with the technical specifications as agreed to in the Trading Partner Agreement between the parties. Contractor shall comply with all applicable Grace Periods, including those provided by federal law for individuals receiving the Advance Premium Tax Credit. In addition to the technical specifications agreed to between the parties' in the Trading Partner Agreement, the State's operational expectations relating to terminations for nonpayment of premium shall be specified in the published VHC Carrier Enrollment & Billing Timeline document.

(a) In other situations, Contractor shall effectuate termination of coverage as directed by the State. Such terminations shall be consistent with applicable state and federal laws.

(b) The State shall direct that coverage may be terminated for individual Enrollees due to loss of eligibility effective as of the last day of the month following the month in which the State sends the notice to Enrollee and Contractor regarding the loss of eligibility, such as when Enrollee ages off a policy.

(c) The State shall direct that coverage will be terminated for individual Enrollees upon an authorized change in enrollment to another QHP effective as of the last day before the effective date of coverage in the new QHP.

(d) The State and Contractor shall continue to work together to define procedures around partial payments in an effort to minimize collection efforts.

(e) Except as otherwise specifically set forth in the published VHC Carrier Enrollment & Billing Timeline or required by law, an Employee's enrollment through Employer may be terminated in connection with

the termination of Employer's coverage. For purposes of an Employee, his or her eligibility shall cease at such time as he/she is no longer a qualified Employee to whom Employer has offered coverage.

4.18. 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 Security Breach, as defined by Title 9, Chapter 62, Contractor shall notify appropriate State personnel of such Security Breach.

Such notice shall be compliant with applicable law, including 9 V.S.A. § 2435. The Contractor shall provide such other information, in writing, as reasonably requested by the State.

In the event of a breach 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 reasonable 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, as reasonably determined by the State consistent with Title 9, Chapter 62. In the event the Contractor fails to timely give notice in accordance with applicable law, including 9 VSA § 2435, the State may assume responsibility for providing all required notices of said Security Breach upon notice to the Contractor. Without limiting the generality of the foregoing, the Contractor acknowledges and agrees that, by execution of this Contract, it is acting or conducting business in the State of Vermont.

In addition to any other indemnification obligations in this Contract, the Contractor shall indemnify and save harmless the State from any costs, loss or damage to the State resulting from a Security Breach or the unauthorized disclosure by the Contractor, its officers, agents, employees, and subcontractors of such State Data to the extent such damages are due to the negligence or misconduct of the Contractor.

Article 5. Appeals and Grievances

5.01 General
The State will process eligibility determinations or redeterminations for individuals, Employers and Employees. The State will determine and be responsible for appeals related to an individual's eligibility for, and amount of Advance Premium Tax Credits, and State Cost Sharing Assistance and State Premium Assistance, if applicable.

5.02 Claims Appeals
Contractor shall be responsible for processing claims and claims appeals in accordance with applicable Laws. DFR is the primary regulatory authority responsible for enforcing the State and federal laws relating to claims appeals. Contractor acknowledges and agrees that the State and DFR may communicate regarding claims appeals and processes thereto and that, consistent with State and federal privacy and security laws, the State and DFR may exchange information to support this Contract and DFR's enforcement activities.

5.03 Grievances
The State shall process enrollment complaints and grievances received by Contractor, which may be the responsibility of the State. Contractor and the State shall work collaboratively to clearly delineate which agency or department of the State of Vermont has primary authority over which types of grievances (beyond claims appeals and eligibility appeals) and will endeavor to create written standards no later than March 1, 2014.

Article 6. Enrollee Materials

6.01 Branding Documents; Licenses

The State shall, in consultation with the Contractor, develop materials to facilitate consumer understanding of the respective roles of VHC and Contractor and allow for timely access to necessary information. Contractor shall cooperate with the State and provide the support and resources, which may be reasonably required to facilitate these goals. The State shall publish these materials on VHC at **http://healthconnect.vermont.gov/style_guide**.

The State hereby grants the Contractor a limited, revocable, non-exclusive license to use the trademarks, service marks, trade names and related designs, graphics and symbols of VHC solely for purposes of this Contract. Contractor shall not assign or sublicense the rights granted hereunder without the express written consent of the State.

6.02 Materials Monitoring

Contractor shall provide the State with at least one (1) copy, unless otherwise specified, of any Enrollee Materials Contractor intends to distribute. Contractor will provide copies of these documents to the VHC Outreach and Education Director for review, at least fourteen (14) business days prior to production or distribution and/or such other period requested by the State. The State shall send a written acknowledgement within one business day to Contractor. If Contractor has not received written acknowledgment of receipt from the State within one business day, than Contractor shall follow up with the VHC Outreach and Education Director. The written acknowledgment shall serve as notice to Contractor that if State does not disapprove or request an extension within seven (7) days of the date of State's written acknowledgment, Contractor may proceed with distributing material as submitted to State. The State shall have the right to disapprove materials in the event the State reasonably determines such materials are misleading, inaccurate or non-compliant with Law. Upon request, the State and Contractor shall work together to create a mutually acceptable electronic site to house Enrollee Materials.

Review is not required of the Contractor's own general and/or promotional materials, including non VHC-specific advertising, employer or employee newsletters, unless such materials refer to VHC.

6.03 Identification Cards

All Enrollee Identification Cards shall contain the VHC logo, and a toll-free number unique to Enrollees. For individual plans, the ID shall include the VHC Customer Support line 855-899-9600. For small business plans, the ID card shall include the VHC Customer Support line 855-499-9800.

6.04 Distribution of Enrollment Materials

Upon effectuating an enrollment, Contractor shall be responsible for mailing each Enrollee an enrollment packet.

6.05 Summary of Benefits and Coverage (SBC)

Contractor shall provide to the State electronic copies of the Summaries of Benefits and Coverage for posting on VHC. Upon request, Contractor shall also distribute hard copies (or electronic copies if requested) of SBCs to Enrollees. Contractor shall also feature such SBCs on its own consumer website. Contractor acknowledges that Summaries of Benefits and Coverage for Plan Years that may have passed may still be relevant and will have such SBCs available electronically or in hard copy as appropriate for three years. Contractor shall also make available QHP certificates of coverage (approved by DFR and identified in Exhibit 1) available on its website and provided electronically to the State.

6.06 Marketing Materials

The State and Contractor shall work collaboratively on marketing plans for the QHPs offered hereunder. Contractor shall meet quarterly with the State to discuss marketing plans and marketing review procedures for QHPs. The State shall define the agenda for such meetings. The State shall have the sole authority to prohibit Contractor from engaging in marketing that the State reasonably determines is inappropriate or inconsistent with Laws. The State shall communicate such prohibition in writing, including a reasonably detailed explanation of the basis for the prohibition.

Article 7. Continuous Improvement

7.01 Supporting a High Quality Cost Effective Health Care System

The State and Contractor acknowledge and agree that the success of VHC requires the parties to play an active role in building and supporting models of care to meet consumer and social needs for providing better care, promoting health and lowering per capita health care costs. Consistent with these goals, the State and Contractor shall coordinate and cooperate with respect to quality activities conducted for VHC.

Article 8. Recertification; Termination; and De-Certification

8.01 Recertification Process

DFR shall be responsible for certifying each Contractor selling QHPs through VHC on a tri-annual basis. During each Contract year, the State will evaluate Contractor based on an assessment process conducted by the State in accordance with its procedures and on a basis consistent with applicable Laws.

8.02 Termination

The State may, upon not less than sixty (60) calendar days' written notice to Contractor, and without prejudice to any other remedies, terminate this Contract based on one or more of the following occurrences:

(a) Contractor breaches any material term or obligation under this Contract that is not cured or substantially cured to the satisfaction of the State within the reasonable timeframe for cure indicated on the notice of breach from the State; provided, however, that such cure period may not be required and the State may terminate the Contract immediately if the State determines that Contractor's breach threatens the health and safety of Enrollees;

(b) Contractor intentionally fails to comply with a change in laws, rules or regulations occurring during the term of this Contract and/or does not take any and all actions that may be required to amend the Contract and otherwise establish and document compliance with any such changes, and the State reasonably determines based on consultation with legal counsel and/or other regulators and/or other state-based or federal health benefit exchanges that the State may be at risk of being found non-compliant with federal laws, rules or regulations as a result of such intentional failure.

The termination shall become effective after the expiration of such notice period if the defaults specified by the State in its notice remain uncured at that time; provided, however, that the State may require Contractor to discontinue the provision of certain Services under this Contract if the State determines that the continuing provision of such Services may cause immediate harm to Enrollees.

Contractor shall not terminate this Contract during the Plan Year identified on Exhibit 1, absent a material breach by the State pertaining to the terms and conditions of this Contract, including a material failure to transmit appropriate Premiums to Contractor that is not cured or substantially cured to the satisfaction of the Contractor upon not less than 60 days prior written notice to the State. Contractor may terminate this Contract

without cause with 90 days notice prior to the start of a new Plan Year.

8.03 Reasonable Assurance of Performance

If the State determines, based on reliable information, that there is a substantial probability that: Contractor will be unable to continue performance under this Contract; or, Contractor will be in material breach of this Contract in the next thirty (30) days, then the State shall have the option to demand that Contractor provide the State with a reasonable assurance of performance. Upon Contractor's receipt of such a demand from the State, Contractor shall provide to the State a reasonable assurance of performance responsive to the State's demand. If Contractor fails to provide such an assurance within twenty (20) days of the State's demand that demonstrates Contractor's reasonable ability to avoid such breach within a reasonable time period not to exceed thirty (30) days, the failure shall constitute a breach by Contractor justifying termination of the Contract by the State.
The State shall be entitled to retain any disputed amounts that remain in the possession of the State until final resolution of all claims by the parties against each other arising out of any Contractor default. However, in no event shall Contractor be responsible for providing coverage to Enrollees if Contractor has not received appropriate Premium for such coverage. All remedies of the State under this Contract for Contractor default are cumulative to the extent permitted by law.

If Contractor determines, based on reliable information, that there is substantial probability that the State may be unable to continue performance under this Contract, or that the State will be in material breach of this Contract in the next thirty (30) days, Contractor shall have the option to demand the State provide reasonable assurance of performance. Upon the State's receipt of such demand from Contractor, the State shall provide Contractor with reasonable assurance of performance responsive to Contractor's demand. If the State fails to provide such assurance within twenty (20) days of Contractor's demand that demonstrates the State's reasonable ability to avoid such breach within a reasonable time period not to exceed thirty (30) days, the failure shall constitute a breach of Contract by the State. Contractor shall be entitled to retain any disputed amounts that remain in the possession of Contractor until final resolution of all claims by the parties against each other arising out of any State default, unless such retention violates applicable law. All remedies of Contractor under this Contract for State default are cumulative to the extent permitted by law.

8.04 Contractor Insolvency

In the event DFR determines Contractor may be unable to meet its obligations hereunder because 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 State, DFR and Contractor shall work together in good faith to minimize any impact on Enrollees resulting from such situation. The State may terminate this Contract upon five (5) days written notice of any DFR determination of Contractor insolvency.

8.05 Continuation and Transition of Care

Contractor shall comply with the continuation and transition of coverage following Contractor's withdrawal of the QHPs, whether voluntarily or due to decertification, including, without limitation, those relating to protocols and timing for the removal of Contractor from the listing of Certified QHPs prior to the commencement of coverage for new individuals and small groups, in accordance with Vermont Rule H-2009-03.

8.06 Effect of Termination

This Contract shall terminate or expire as set forth herein, unless otherwise agreed by the parties.

Upon expiration or termination, Contractor's QHPs (identified in Exhibit 1) shall be deemed decertified and shall cease to operate as a Certified QHPs upon termination or expiration of this Contract. Contractor may appeal the termination this Contract in the Superior Court of the State of Vermont, Civil Division, Washington

Unit.

(a) All duties and obligations of the State and Contractor shall cease upon termination of this Contract and the decertification of Contractor's Certified QHPs that shall occur upon the termination of this Contract, except as set forth below or otherwise provided in this Contract.

(b) The State and Contractor shall cooperate fully to effect an orderly transfer of coverage to another Issuer as determined by the State following involuntary termination. In the event of Contractor's insolvency or threatened insolvency, Contractor shall cooperate with the State prior to contract termination to ensure the most orderly transition possible. Such cooperation shall include, without limitation, the following:

1. Contractor shall timely and accurately process all claims owing for that period of time when coverage was in effect, prior to termination, consistent with the terms of the QHPs and Contractor's contracts with participating Providers, in accordance with applicable law.
2. Contractor shall work with the State to develop communications to Enrollees and Employers regarding the effect of the termination.

(c) To the extent feasible, Contractor shall continue to provide customer service to support the processing of claims received prior to the end date of coverage.

(d) As instructed by the State in the termination notice, Contractor shall promptly discontinue the provision of any specific services identified in the termination notice as of the date reasonably requested by the State.

(e) Contractor will perform reasonable and necessary acts requested by the State and as required under applicable Laws and consistent with industry standards to facilitate transfer of coverage to a succeeding Contractor. In the event of termination, the State and Contractor shall cooperate with each other and any successor QHP in good faith with respect to taking such actions are reasonably determined to be the best interest of Enrollees and Employers.

(f) The State and Contractor shall participate in an accounting, conducted by the State or other entity as may legally be required, of amounts paid or payable and Enrollees enrolled during the month in which termination is effective in order to assure an appropriate determination of premiums earned by and payable to Contractor for Services rendered prior to the date of termination.

(g) Responsibility to Complete Contractual Obligations: After termination, Contractor shall be responsible for submitting any outstanding financial or other reports required during the term of the Contract.

(h) The State and Contractor shall (i) provide such other information to the other party, Enrollees and/or a succeeding Contractor, and/or (ii) take any such further action as is required to effect an orderly transition of Enrollees to another QHP in accordance with requirements set forth under this Contract and/or reasonably necessary to the continuity and transition of care in accordance with applicable Laws.

8.07 Effect of Decertification

In the event that Contractor is decertified by DFR, such decertification shall be treated as a termination of this Contract. Contractor may appeal the decertification of its QHP and such appeal shall be conducted pursuant to applicable Laws. If DFR decertifies Contractor, such decertification shall identify a date of decertification at which time, the contract shall be treated as terminated. The parties acknowledge that if at all possible, decertification should occur in a timeframe that limits the negative impact on Enrollees and Employers. Contractor may appeal DFR final decision on decertification to the State of Vermont, Civil Division, Washington Unit.

8.08 Coverage Following Termination and Decertification

(a) Upon the termination of this Contract, Contractor and the State shall cooperate fully with each other in order to ensure an orderly transition of Enrollees to other appropriate coverage. This cooperation shall include, without limitation, (i) attending post- termination meetings, (ii) communicating with the provider community regarding changes, and/or (iii) communicating with affected Enrollees and Employers in cooperation with each other and/or the succeeding contractor.

(b) If reasonably requested by the State, Contractor shall take reasonably practicable efforts to communicate

information regarding deductibles and other cost share information to another issuer to support minimal Enrollee disruption.

8.09 Notices

Any notice or other written communication that may or must be given hereunder shall be deemed given when delivered personally, or if it is mailed, three (3) days after the date of mailing, unless delivery is by express mail, facsimile or, electronic mail, and then upon the date of the confirmed receipt, to the following representatives:

For VHC: Vermont Health Connect, Department of Vermont Health Access

Attention: Dana Houlihan
Telephone No. (802) 585-4140
Email: Dana.Houlihan@state.vt.us

For Contractor:

Name: General Counsel
Address: P.O. Box 186
City, State, Zip Code: Montpelier, VT 05601
Telephone No. (802) 371-3289 FAX No. (802) 229-0511
Email: legaldepartment@bcbsvt.com

Either party hereto may, from time to time by notice in writing served upon the other as aforesaid, designate a different mailing address or a different or additional person to which all such notices or other communications thereafter are to be addressed.

Article 9: General Provisions and Compliance with Law

9.01 Compliance with Laws. Contractor and its subcontractors will at all times comply with those Laws applicable to Contractor and Contractor's business, activities, Contractor's facilities and the provision of Services hereunder, including Laws of any country or jurisdiction from which or through which Contractor provides the Services or obtains resources or personnel to do so (Contractor Laws). Contractor shall implement (and bear the costs associated with) any change in Contractor Laws prior to the deadline imposed by the regulatory or governmental body having jurisdiction for such requirement or change. The parties will work together to determine the impact on the Services and Contractor's performance hereunder and amend this Contract as necessary.

9.02 General Provisions

(a) Time is of the essence in this Contract.
(b) Force Majeure. Except as prohibited by applicable Laws, the parties' performance under this Contract is subject to acts of God, war or civil commotion, fire, earthquake, or other natural disaster or any other cause beyond the parties' control, making it illegal or impossible to perform their obligations under this Contract. If a party asserts Force Majeure as an excuse for failure to perform the party's obligation, then the nonperforming party must prove that it took reasonable steps to minimize delay or damages caused by foreseeable events, that the party substantially fulfilled all non-excused obligations, and that the other party was timely notified of the likelihood or actual occurrence of an event described in this Paragraph.

(c) Contractor and the State agree to execute such additional documents, and perform such further acts, as may be reasonable and necessary to carry out the provisions of this Contract.
(d) This Contract, any instrument or agreement executed pursuant to this Contract, and the rights, covenants, conditions, and obligations of Contractor and the State contained therein, shall be binding upon the parties and their successors, assigns, and legal representatives.
(e) Titles or headings are not part of this Contract, are for convenience of reference only, and shall have no effect on the construction or legal effect of this Contract.
(f) Should one or more provisions of this Contract be held by any court to be invalid, void, or unenforceable, such provision(s) will be deemed to be restated to affect the original intentions of the parties as nearly as possible in accordance with applicable law. The remaining provisions shall nevertheless remain and continue in full force and effect.
(g) No delay on the part of either party in exercising any right, power, or privilege hereunder shall operate as a waiver thereof. No waiver on the part of either party of any right, power, or privilege hereunder, nor any single or partial exercise of any right, power, or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power, or privilege hereunder.
(h) Any references to sections of federal or State statutes or regulations shall be deemed to include a reference to any subsequent amendments thereof and any successor provisions thereto made from time to time from and after the date of this Contract.
(i) This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
(j) This Contract having been freely and voluntarily negotiated by all parties, the rule that ambiguous contractual provisions are construed against the drafter of the provision shall be inapplicable to this Contract.

EXHIBIT 1

Vermont Health Connect
Plan Designs & Monthly Premiums

For a glossary of health insurance terms visit:
http://healthconnect.vermont.gov/about_us/glossary

Note: Most Vermonters who use Vermont Health Connect will get financial help to reduce their costs, either from their employer or a tax credit.

	Standard Plans						Non-Standard Plans (Choice Plans)					
	Deductible Plans				High Deductible Health Plans Can be paired with a Health Savings Account		BCBS			MVP		
							Gold	Silver	Bronze	Gold	Silver	Bronze
Deductible/Out of Pocket Maximum	**Platinum**	**Gold**	**Silver**	**Bronze**	**Silver**	**Bronze**	**Blue for You**	**Blue for You**	**Blue for You CDHP**	**HMO 500**	**HMO 1700**	**HMO 3000**
Medical Deductible (Individual/Family)	$150/$300	$750/$1500	$1900/$3800	$3500/$7000	$1550/$3100	$2000/$4000	$1250/$2500	$2000/$4000	$5000/$10000	$500/$1000	$1700/$3400	$3000/$6000
Rx Deductible	$0	$50/$100	$100/$200	$200/$400	$1250/$2500	$1250/$2500	N/A	N/A	N/A	$75/$150	$200/$400	$200/$400
Integrated Deductible	No	No	No	No	Yes	Yes	Yes	Yes	Yes	No	No	No
Medical Out of Pocket Maximum (Individual/Family)	$1250/$2500	$4250/$8500	$5100/$10,200	$6350/$12,700	$5750/$11,500	$6250/12,500	$4250/$8500	$6250/$12500	$6250/$12500	$5100/$10200	$5100/$10200	$6350/$12700
Rx Out of Pocket Maximum (Individual/Family)	$1250/$2500	$1250/$2500	$1250/$2500	$1250/$2500	$1250/$2500	$1250/$2500	$1250/$2500	$1250/$2500	$1250/$2500	$1250/$2500	$1250/$2500	$1250/$2500
Integrated Out of Pocket Maximum	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes
Family Deductible/Out of Pocket Maximum	Stacked, 2x Individual	Stacked, 2x Individual	Stacked, 2x Individual	Stacked, 2x Individual	Aggregate, 2x Individual	Aggregate, 2x Indivudal	Aggregate, 2x Individual	Aggregate, 2x Individual	Aggregate, 2x Individual	Stacked, 2x Individual	Stacked, 2x Individual	Stacked, 2x Individual
Medical Deductible[1] waived for:	Prev, OV, UC, Amb, ER	Prev, OV, UC, Amb, ER	Prev, OV, UC, Amb	Preventive	Preventive	Preventive	Preventive, 3 PCP/MH OV	Preventive, 3 PCP/MH OV	Preventive	Preventive, OVs, Urgent Care, Amb	Preventive, OVs, Urgent Care, Amb	Preventive
Drug Deductible waived for:	N/A	Generic scripts	Generic scripts	Applies to all scripts	Wellness scripts	Wellness scripts	N/A	N/A	Wellness Drugs	VBID, Generic Drugs	VBID, Generic Drugs	N/A
Service Category (Examples)	**Coinsurance (%) /Copay ($)**	**Coinsurance (%) /Copay ($)**	**Coinsurance (%) /Copay ($)**	**Coinsurance (%) /Copay ($)**	**Coinsurance (%) /Copay ($)**	**Coinsurance (%) /Copay ($)**	**Coinsurance (%) /Copay ($)**	**Coinsurance (%) / Copay ($)**	**Coinsurance (%) /Copay ($)**	**Coinsurance (%) /Copay ($)**	**Coinsurance (%) /Copay ($)**	**Coinsurance (%) /Copay ($)**
Hospital Services[2]	10%	20%	40%	50%	20%	50%	$500	$1,750	50%	20%	50%	50%
Emergency Room[3]	$100	$150	$250	50%	20%	50%	$250	$250	50%	20%	$400	50%
Preventive	$0	$0	$0	$0	0%	0%	$0	$0	$0	$0	$0	$0
Office visit w/PCP or Mental Health	$10	$15	$20	$35	10%	50%	Combined 3 visits PCP/MH with no cost share; then deductible applies with $20 copay	Combined 3 visits PCP/MH with no cost share; then deductible applies with $30 copay	50%	$5	$10	$30
Specialist Office Visit[4]	$20	$25	$40	$80	20%	50%	$30	$50	50%	$30	$40	$100
Urgent Care	$40	$45	$60	$100	20%	50%	$30	$50	50%	$45	$60	$100
Ambulance	$50	$50	$100	$100	20%	50%	$30	$50	50%	$50	$100	$100
Rx Drug Coverage												
Rx Generic	$5	$5	$12	$20	$10	$12	$5	$5	$25	$5	$12	$20
Rx Preferred Brand	$40	$40	$50	$80	$40	40%	40%	40%	40%	$50	$60	$90
Rx Non-Preferred Brand	50%	50%	50%	60%	50%	60%	60%	60%	60%	50%	50%	60%
BCBSVT Premiums							**Blue for You**	**Blue for You**	**Blue for You CDHP**			
Single	$582.79	$497.06	$425.19	$359.47	$412.83	$362.34	$460.37	$395.26	$341.15			
Couple	$1,165.58	$994.12	$850.38	$718.94	$825.66	$724.68	$920.74	$790.52	$682.30			
Parent and Child(ren)	$1,124.78	$959.33	$820.62	$693.78	$796.76	$699.32	$888.51	$762.85	$658.42			
Family	$1,637.64	$1,396.74	$1,194.78	$1,010.11	$1,160.05	$1,018.18	$1,293.64	$1,110.68	$958.63			
MVP Premiums										**HMO 500**	**HMO 1700**	**HMO 3000**
Single	$594.30	$513.83	$427.51	$336.13	$428.58	$366.22				$521.59	$419.17	$341.95
Couple	$1,188.60	$1,027.66	$855.02	$672.26	$857.16	$732.44				$1,043.18	$838.34	$683.90
Parent and Child(ren)	$1,147.00	$991.69	$825.09	$648.73	$827.16	$706.80				$1,006.67	$809.00	$659.96
Family	$1,669.98	$1,443.86	$1,201.30	$944.53	$1,204.31	$1,029.08				$1,465.67	$1,177.87	$960.88

Abbreviations-- Rx: Prescription Drugs, OV: Office Visits, UC: Urgent Care, Amb: Ambulance, VBID: Value-Based Insurance Directive

Glossary-- Find definitions for Integrated Deductible/Out of Pocket Maximum (OOPM), Stacked Deductible/OOPM, Aggregate Deductible/OOPM, and other terms at http://healthconnect.vermont.gov/about_us/glossary

1 Medical Deductible waived for: Preventive, Office Visit, Urgent Care, Ambulance, Emergency Room (as indicated by plan)
2 Hospital Services are Inpatient (including surgery, ICU/NICU, maternity, SNF and MH/SA); Outpatient (including ambulatory surgery centers); and Radiology (MRI, CT, PET). This cost sharing will also include physician and anesthesia costs, as appropriate.
3 ER copay is waived if admitted.
4 Specialist copay also applies to PT/ST/OT, vision, and any alternative medicine benefits, as appropriate.

Updated 8/19/13

Final Selected Choice Plans

Blue Cross Blue Shield

	BCBS			
	Gold	Silver	Bronze	Catastrophic
Deductible/OOP Max	**Blue for You (Non-CDHP)**	**Blue for You (Non-CDHP)**	**Blue for You (CDHP)**	**EPO 6350**
Type of Plan	Deductible	Deductible	HSA Q/HDHP	Deductible
Medical Ded	$1,250	$2,000	$5,000	$6,350
Rx Ded	N/A	N/A	N/A	N/A
Integrated Ded	Yes	Yes	Yes	Yes
Medical MOOP	$4,250	$6,250	$6,250	$6,350
Rx MOOP	$1,250	$1,250	$1,250	$1,250
Integrated MOOP	Yes	Yes	Yes	Yes
Family Deductible / OOP	Aggregate, 2x Individual	Aggregate, 2x Individual	Aggregate, 2x Individual	Aggregate, 2x Individual
Medical Deductible waived for:	Preventive, 3 PCP/MH/SA OV	Preventive, 3 PCP/MH/SA OV	Preventive	Preventive, 3 PCP/MH/SA OV
Drug Deductible waived for:	N/A	N/A	Wellness Drugs	N/A
Service Category	**Copay / Coinsurance**	**Copay / Coinsurance**	**Copay / Coinsurance**	**Copay / Coinsurance**
Inpatient	$500	$1,750	50%	0%
Outpatient	$500	$1,750	50%	0%
ER	$250	$250	50%	0%
Radiology (MRI, CT, PET)	$500	$1,750	50%	0%
Preventive	$0	$0	$0	0%
PCP Office Visit	Combined 3 visits PCP/MH/SA at no cost share; then ded applies with $20 copay	Combined 3 visits PCP/MH/SA at no cost share; then ded applies with $30 copay	50%	Combined 3 visits PCP/MH/SA at no cost share; then ded applies
MH/SA Office Visit			50%	
Specialist Office Visit	$30	$50	50%	0%
Urgent Care	$30	$50	50%	0%
Ambulance	$30	$50	50%	0%
Rx VBID	N/A	N/A	N/A	N/A
Rx Generic	$5	$5	$25	0%
Rx Preferred Brand	40%	40%	40%	0%
Rx Non-Preferred Brand	60%	60%	60%	0%
Dental Benefits	**Blue for You (Non-CDHP)**	**Blue for You (Non-CDHP)**	**Blue for You (CDHP)**	**EPO 6350**
Embedded with the Medical Plan	Yes	Yes	Yes	Yes
Deductible	$1,250	$2,000	$5,000	$6,350
MOOP	$4,250	$6,250	$6,250	$6,350
Class 1 Preventive and Diagnostic	0% after ded	0% after ded	0% after ded	0% after ded
Class 2 Basic	30% after ded	30% after ded	30% after ded	0% after ded
Class 3 Major	50% after ded	50% after ded	50% after ded	0% after ded
Medically Necessary Ortho	50% after ded	50% after ded	50% after ded	0% after ded
Premiums	**Blue for You (Non-CDHP)**	**Blue for You (Non-CDHP)**	**Blue for You (CDHP)**	**EPO 6350**
Single	$460.37	$395.26	$341.15	$213.68
Couple	$920.74	$790.52	$682.30	$427.36
Parent and Child(ren)	$888.51	$762.85	$658.42	$412.40
Family	$1,293.64	$1,110.68	$958.63	$600.44

ATTACHMENT B

PAYMENT PROVISIONS

1.01 Premium Processing

Except as otherwise set forth herein, the State shall have no payment obligations to the Contractor, and the Contractor shall have no recourse to the State, for Premium payments.

The State shall be responsible for the aggregation and administration of Premiums for Qualified Employers and Qualified Individuals purchasing insurance through VHC. The State shall be responsible for: (1) the submission of bills to each Employer on a monthly basis in a form that identifies Employer and Employee contributions and the total amount due; (2) collecting the amounts due from each Employer; (3) determining that portion of collected premiums which is payable to Contractor; and (4) making payments to Contractor for Enrollees in Contractor's Certified QHPs within timeframes identified in the Payment ICD and Companion Guide attached to the Trading Partner Agreement between the parties; and (5) promptly processing non-payment termination transactions transmitted to the State by Contractor.

In no event shall the State be liable to Contractor with respect to any interest or other charges relating to Premium payments received by the State that are not yet disbursed by the State to the Contractor; provided, however, the State shall be liable to the extent of its own negligent acts or omissions or intentional misconduct which results in the failure to distribute Premium payments to Contractor which are owing for coverage provided pursuant to the QHPs attached hereto in Exhibit 1. In no event shall Contractor be liable for the negligent acts or omissions or intentional misconduct of the State, including billing errors attributable to the State and, to the extent Contractor has provided coverage for Premiums received, Contractor shall not be required to rescind such coverage.

1.02 Schedule of Rates

Contractor shall only offer the QHPs identified in Exhibit 1 at the Premium rates identified in Exhibit 1.

1.03 Collection and Remittance

The State shall be responsible for collection and remittance of the agreed-upon premium rates to Contractor in a timely manner and consistent with the specifications embodied in the parties Trading Partner Agreement. The failure by an Enrollee to timely pay premiums may result in a termination of coverage pursuant to the terms set forth in published VHC Billing and Enrollment Timeline.

In the event that Contractor directly receives Premium payments from Qualified Individuals or Qualified Employers, Contractor shall:

(a.) deposit cash in Contractor's account, if necessary to effectuate timely coverage, and mail a check, made payable to State of Vermont, Department of Health Access a/k/a/"Vermont Health Connect," along with information sufficient to communicate the date Contractor received cash to the following address:

Vermont Health Connect
PO Box 1840
Williston, VT 05495-1840

(b.) place checks with envelop in a larger envelope and mail to the address listed in subsection (a.)

(c.) place checks delivered without an envelope in an envelope along with information sufficient to communicate the date Contractor received cash and mail to the address listed in subsection (a.)

Contractor shall include with any cash or checks received, sufficient information for the State to identify the Qualified Individual and/or Employer who made the payment in error to the Contractor. The State will process these payments when received, as of the date Contractor indicates Premium was received when forwarded to State. Contractor shall remain liable for such Premium payments until they are actually received by VHC.

Contractor shall not be liable for billing errors that are the fault of the State. The State shall not be liable for Contractor's failure to accurately implement a Premium rate as directed by the State.

1.04 Non-Payment of Premium

(a) Notice of Rights and Consequences of Non-Payment of Premiums

In the event Contractor terminates an Enrollee's coverage in a QHP in accordance with Section 4.17 of Attachment A, Contractor must include the following informational and appeals language in all termination notices:

"If you have specific questions about your bill, please call the State of Vermont's Customer Service line: 1 (855) 899-9600. For additional help with questions about health care and health insurance, call the Vermont Health Care Ombudsman's Office for free assistance: 1 (800) 889-2047."

"If your coverage was terminated, and you believe termination is due to a billing or payment error, you have the right to a Fair Hearing before the Vermont Human Services Board. You have 90 days from the date this letter to request a Fair Hearing, and may do so verbally or in writing by calling the State of Vermont's Customer Service line: 1 (855) 899-9600. All appeals are processed in accordance with fair hearing rules as promulgated by the Human Services Board pursuant to 3 V.S.A. § 3091(b)."

Additionally, Contractor will work with interested parties to create notices, by January 1, 2014, for Advance Premium Tax Credits recipients, that may include specific dates following the premium due date during which coverage remains in force and an enrollee may pay the premium without penalty, in addition to the end date for the 90 day Grace Period. Notices shall also include sufficient information to communicate consequences of failure to satisfy outstanding premiums by the end of a Grace Period.

(b) Collection and Remittance. The State agrees to perform collection and aggregation of monthly premiums with respect to Contractor's QHPs and will remit said premiums to Contractor as specified more fully in the Electronic Trading Partner Agreement between the parties. The State shall be responsible for promptly researching and correcting potential billing errors identified by Contractor. Contractor shall not be liable for terminating coverage for non-payment consistent with State instructions when the State has provided incorrect billing or payment information to Contractor.

(c) Collections. Contractor shall not pursue collection of any delinquent Premiums from the State, but shall seek recovery only against Enrollees or Employers who are responsible for payment to the State for premiums Notwithstanding the foregoing, in the event of a billing dispute whereby an Enrollee claims to have paid the State for premiums not remitted to Contractor, Contractor may join with the Enrollee to pursue collection of premium payments from the State. Contractor shall monitor the collection activities and provide the State with documentation reasonably requested by the State to facilitate the State's monitoring, tracking or reporting with respect to Contractor's collection efforts, including, policies and procedures and copy of any form of delinquency or termination warning or notice sent to an Enrollee or Employer.

(d) Insufficient Funds. Contractor shall not be entitled to collect from Enrollees and/or receive from Employers any amounts or receive funds from the Employers above the premium amounts directed by the State, except with respect to cost-sharing amounts, or to the extent that such payment relates to a

charge for non-sufficient funds transactions at rates that are reasonable and customary for such transaction and consistent with applicable Laws and the terms set forth in Attachment I to this Contract.

(e) Contractor shall review and reconcile information received from the State on at least a monthly basis relating to the administration of premium payments, and other applicable Laws necessary to the administration of premiums. Such reconciliation process will include the Contractor's review of information relating to: (i) the required contributions from Employers and Employees (ii) amounts due to Contractor from each individual. Contractor must provide the State with notice of any reconciling enrollment information with Premium payment information necessary to successfully administer the payment and collection of Premiums.

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 ***$ $5,000,000*** per occurrence, and ***$ $15,000,000*** 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 subgrant the performance of his 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.

16. **No Gifts or Gratuities**: Party shall not give title or possession of any thing of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this 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. **In addition to the insurance requirements contained in Attachment C, Section 7, Contractor agrees to procure and maintain:**
   Umbrella policy providing excess limits over the primary general liability, automobile liability and employer's liability policies in an amount not less than $10 million per occurrence and in the aggregate. Contractor shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

2. **Requirements of other Sections in Attachment C are hereby modified:**
   Subcontracting:
   This language shall take precedence over any conflicting language in Attachment C. The work to be performed by Contractor under this Agreement may be performed in part by an authorized representative, subsidiary, or affiliate of Contractor; provided, however, that Contractor will be and remain the State's primary point of contact; and provided, further, that Contractor will at all times remain responsible and liable for all obligations, services and functions performed by any such third parties, whether contractors or any other permitted parties, to the same extent as if performed or to be performed by Contractor. Contractor agrees to notify State at least 45 days in advance of implementation of any subcontract that relates to its performance that may affect Enrollees' or Employers' interaction with VHC. [State reserves the right to opt out of the implementation of any subcontract that may affect Enrollees' or Employers' interaction with VHC.]

3. **Requirements of Sections in Attachment F are hereby modified:**
   Sections 1 (Agency of Human Services – Field Services Directors), 2 (2-1-1 Data Base), 3 (Medicaid Program Contractors), 5 (Voter Registration), 8 Abuse Registry), and 10 (Intellectual Property/Work Product Ownership), of Attachment F to this Contract shall not apply to this Contract.

4. **Reasons for Modifications:**
   Sections 1 (Agency of Human Services – Field Services Directors), 2 (2-1-1 Data Base), 3 (Medicaid Program Contractors), 5 (Voter Registration), 8 (Abuse Registry), and 10 (Intellectual Property/Work Product Ownership), of Attachment F to this Contract are not applicable to this Contract.

APPROVAL:

_____
ASSISTANT ATTORNEY GENERAL

DATE: _____

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 database 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 V.S.A. §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.

Attachment F - Revised AHS -12/10/10

ATTACHMENT H
BUSINESS PARTNER AGREEMENT

This Business Partner 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** ("DVHA") and **Blue Cross Blue Shield of Vermont** ("Business Partner") as of **8/30/2013** ("Effective Date"). This Agreement supplements and is made a part of the Contract to which it is attached.

DVHA and Business Partner ("the Parties") agree to comply with the terms of this Agreement and the standards promulgated under the Patient Protection and Affordable Care Act of 2010 (Public Law 111-148) as amended by the Health Care and Education Reconciliation Act (Public Law 111-152), and referred to collectively as the Affordable Care Act (ACA), and 45 CFR §155.260, "Privacy and security of personally identifiable information." Business Partner information that constitutes protected health information (PHI) may have additional standards to which the Business Partner must adhere, which would be set out in a separate agreement.

1. **Definitions** All capitalized terms in this Agreement have the meanings identified in this Agreement and 45 CFR Part 155, "Exchange Establishment Standards and Other Related Standards Under the Affordable Care Act."

   1.1 The term "**Services**" includes all work performed by the Business Partner for or on behalf of DVHA that requires the access, collection, use and/or disclosure of personally identifiable information (PII).
   1.2 The term "**PII**" refers to personally identifiable information in any medium, including electronic, which can be used to distinguish or trace an individual's identity, such as his/her name, social security number, biometric records, etc., either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name.
   1.3 The term "**Minimum Functions**" includes all work performed (or Contracted to be performed) pursuant to subparts D, E, H, and K of 45 CFR 155, if such work requires the Business Partner to create, collect, use, or disclose PII.
   1.4 The term "**Agreement**" refers to this Business Partner Agreement, which details the privacy and security requirements that the Parties must adhere to.
   1.5 The term "**Individual**" includes applicants, enrollees, and qualified individuals applying for coverage at the Vermont Health Insurance Exchange or Medicaid Agency.
   1.6 The term "**Breach**" means the loss of control, compromise, and unauthorized disclosure, acquisition, access, or use, and any similar term referring to situations where: (a) PII is used for an unauthorized purpose, or (b) persons other than authorized users have access or potential access to PII.

2. **Authorized Uses/Disclosures of PII**

   2.1 Except as limited in this Agreement, Business Partner may only create, collect, use or disclose PII to the extent necessary to perform Services specified in the underlying Contract with DVHA. In the course of providing Services, Business Partner shall not use or disclose PII in any manner that would constitute a violation of 45 CFR §155.260 if used or disclosed by DVHA.

   2.2 Business Partner may make PII available to its employees who need access to perform Services and/or Minimum Functions, provided that Business Partner makes such employees aware of the creation, collection, use and disclosure restrictions in this Agreement and binds them to comply with

such restrictions. Business Partner must also require workforce compliance with 45 CFR §155.260 when employees create, collect, use, or disclose PII in the course of providing Services

3. **Privacy Requirements** Uses and disclosures of PII to carry out the Services identified in the Contract must be of the minimum amount of PII necessary to perform the services. Business Partner may not create, collect, use or disclose PII gathered for the purposes listed in 45 CFR §155.260(a)(1) while performing Minimum Functions unless the creation, collection, use or disclosure is consistent with the written policies and procedures identified by the State in accordance with 45 CFR §155.260. In addition, Business Partner must ensure workforce compliance with these policies and procedures

4. **Security Safeguard Requirements**

Business Partner shall implement and use appropriate safeguards to prevent the use or disclosure of PII except as provided for by this Agreement, an Interconnection Security Agreement, if applicable, and as set forth in 45 CFR 155.260(a)(3)(vii) and (4).

5. **Documenting and Reporting Breaches**

Business Partner shall report to DVHA any Breach of PII as soon as it (or any of its employees, agents or subcontractors) becomes aware of such Breach, and in no case later than three (3) business days after it (or any of its employees, agents or subcontractors) becomes aware of the Breach. If DVHA determines that a Breach of PII occurred for which one of Business Partner's employees, agents or subcontractors was responsible, upon its request, Business Partner shall provide notice to the individual(s) whose PII was the subject of the Breach. When requested to provide notice, Business Partner shall consult with DVHA about the timeliness, content and method of notice, and shall receive DVHA's approval concerning these elements. The cost of notice and related remedies shall be borne by Business Partner.

6. **Mitigation and Corrective Action Requirements** Business Partner shall mitigate, to the extent practicable, any harmful effect that is known to it of a Breach of PII. To the extent the Breach of PII has the potential to cause harm to the affected individual(s) or otherwise indicates the possibility of a security issue, Business Partner shall draft and carry out a plan of corrective action to address any incident of impermissible collection, use or disclosure of PII, subject to DVHA's review.

7. **Requirements for Agreements with Third Parties** Business Partner may only disclose PII obtained to provide Services to its agents and subcontractors, for the purposes authorized by this Agreement. Business Partner shall ensure that any agent and subcontractor to whom it provides PII received from DVHA or created or received by Business Partner on behalf of DVHA agrees in a written agreement to the same PII restrictions and conditions that apply through this Agreement to Business Partner. The written agreement must identify DVHA as a direct and intended third party beneficiary with the right to enforce any Breach of the agreement concerning the use or disclosure of PII. Notwithstanding the above, for contracts into which Business Partner entered with agents and subcontractors prior to the effective date of this Agreement, Business Partner shall provide a list of such agents and subcontractors to DVHA no later than September 30, 2013 and shall ensure that such agents and subcontractors are in compliance with the PII protections provided by this Agreement. On a quarterly basis, starting January 15, 2014, and on the first business day of the quarter thereafter, Contractor shall provide a written certificate of compliance indicating that contracts entered into after the effective date of this contract are in compliance with this provision. Such

report shall identify by name those agents and subcontractors who have not previously been identified. DVHA shall have the right to audit this and other provisions of this Agreement.

8. Termination

8.1 This Agreement commences on the effective date and shall remain in effect until terminated by DVHA or until all of the PII provided by DVHA to Business Partner or created or received by Business Partner on behalf of DVHA is destroyed or returned to DVHA subject to Section 9.

8.2 If Business Partner breaches any material term of this Agreement, DVHA, without liability or penalty, may either: (a) provide in writing an opportunity and time frame for Business Partner to cure the breach and terminate the Contract if Business Partner fails to cure; or (b) immediately terminate the Contract if DVHA believes that cure is not reasonably possible. DVHA has the right to seek to cure any breach by Business Partner and this right, regardless of whether DVHA cures such breach, does not lessen any right or remedy available to DVHA at law, in equity, or under the Contract, nor does it lessen Business Partner's responsibility for such breach or its duty to cure such breach.

9. Responsibility for the Return/Destruction of PII

9.1 Business Partner, in connection with the expiration or termination of the Contract, shall return or destroy, at the discretion of DVHA, all PII received from DVHA or created or received by Business Partner on behalf of DVHA pursuant to the Contract that Business Partner still maintains within thirty (30) days after such expiration or termination. Business Partner shall not retain any copies of the PII. Within the thirty (30) day period, Business Partner shall certify in writing to DVHA that (1) all PII has been returned or destroyed, and (2) Business Partner does not continue to maintain any PII.

9.2 Business Partner shall provide to DVHA notification of any conditions that Business Partner believes make the return or destruction of PII infeasible. If DVHA agrees that return or destruction is infeasible, Business Partner shall extend the protections of this Agreement to such PII and limit further uses and disclosures of such PII to those conditions that make the return or destruction infeasible for so long as Business Partner maintains such PII.

9.3 In the context of this Contract with Business Partner, DVHA agrees that the return or destruction of PII is infeasible.

10. Penalties Business Partner understands that it may be subject to a civil penalty, in addition to other penalties that may be prescribed by law, resulting from the improper creation, collection, use or disclosure of PII. In addition, violations of this Agreement may result in notification by DVHA to law enforcement officials and regulatory, accreditation, and licensure organizations.

11. Training Business Partner shall participate in training regarding the use, confidentiality, and security of PII at DVHA's request.

12. Miscellaneous

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

12.2 Business Partner shall cooperate with DVHA to amend this Agreement from time to time as is necessary for DVHA to comply with 45 CFR §155.260 or any other standards promulgated under the ACA.

12.3 Any ambiguity in this Agreement shall be resolved to permit DVHA to comply with 45 CFR §155.260, or any other standards promulgated under the ACA.

12.4 In addition to applicable Vermont law, the parties shall rely on applicable federal law (e.g., the ACA) in construing the meaning and effect of this Agreement.

12.5 As between Business Partner and DVHA, DVHA owns all PII provided by DVHA to Business Partner or created or received by Business Partner on behalf of DVHA.

12.6 The provisions of this Agreement that by their terms encompass continuing rights or responsibilities shall survive the expiration or termination of this Agreement.

The following provisions apply only to those Business Partners that will be accessing Federal Tax Information (FTI)

As applicable, DVHA and Business Partner ("the Parties") agree to comply with the terms of this Agreement and the Language for General Services and Technology Services pursuant to IRS Publication 1075, Exhibit 7:

13. **General Services; Performance** In performance of this Contract, the contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

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

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

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

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

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

13.6 DVHA will have the right to void the Contract if the contractor fails to provide the safeguards described above.

14. General Services; Criminal/Civil Sanctions

14.1 Each officer or employee of any person to whom returns or return information is or may be

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

14.2 Each officer or employee of any person to who returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as $1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such Person shall also notify such officer and employee that such authorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of $1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRC Sections 7213A and 7431.

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

14.4 Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review as part of the certification and at lease annually afterwards, contractors should be advised of the provisions of IRC Sections 7431, 7213, and 7213A (see Exhibit 6, /RC Sec. 7431 Civil Damages for Unauthorized Disclosure of Returns and Return Information and Exhibit 5, IRC Sec. 7213 Unauthorized Disclosure of Information). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For both the initial certification and the annual certification, the contractor should sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

15. **General Services; Inspection** The IRS and (is this DVHA?) shall have the right to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work under this Contract. On the basis of such inspection, specific

measures may be required in cases where the contractor is found to be noncompliant with contract safeguards.

16. **Technology Services; Performance** In performance of this Contract, the contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

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

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

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

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

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

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

16.7 No work involving FTI furnished under this Contract will be subcontracted without prior written approval of the IRS.

17. **Technology Services; Criminal/Civil Sanction**

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

17.2 Each officer or employee of any person to who returns or return information is or may be

disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as $1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such Person shall also notify such officer and employee that such authorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of $1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRC Sections 7213A and 7431.

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

17.4 Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review as part of the certification and at lease annually afterwards, contractors should be advised of the provisions of IRC Sections 7431, 7213, and 7213A (see Exhibit 6, /RC Sec. 7431 Civil Damages for Unauthorized Disclosure of Returns and Return Information and Exhibit 5, IRC Sec. 7213 Unauthorized Disclosure of Information). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For both the initial certification and the annual certification, the contractor should sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

18. **Technology Services; Inspection** The IRS and DVHA shall have the right to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work under this contract. On the basis of such inspection, specific measures may be required in cases where the contractor is found to be noncompliant with contract safeguards.