

STATE OF VERMONT, CONTRACT FOR SERVICES
DEPARTMENT OF VERMONT HEALTH ACCESS
CHANGE HEALTHCARE PHARMACY SOLUTIONS, INC.

PAGE 1 OF 23
CONTRACT #34056
AMENDMENT 6

STATE OF VERMONT
CONTRACT AMENDMENT

It is hereby agreed by and between the State of Vermont, Department of Vermont Health Access (DVHA) (the "State") and Change Healthcare Pharmacy Solutions, Inc., with a principal place of business in Augusta, Maine (the "Contractor") that the contract between them originally dated as of May 1, 2014, Contract #34056, as amended to date, (the "Contract") is hereby amended as follows:

- I. Maximum Amount.** The maximum amount payable under the Contract, wherever such reference appears in the Contract, shall be changed from \$37,364,262.01 to \$55,673,574.11, representing an increase of \$18,309,312.10.
- II. Contract Term.** The Contract end date, wherever such reference appears in the Contract, shall be changed from December 31, 2022 to December 31, 2024. The Contract Term may be renewed for one additional one-year period at the discretion of the State.
- III. Number 9. Notice of Contract Action.** The Notice of Contract Action in Number 9, as restated beginning on Page 1 of Amendment 5, is hereby deleted and replaced as follows:

Notice of Contract Action. For purposes of this contract, the parties agree that the following persons and addresses shall be used to notify either party of a contract action:

State Fiscal Manager: Meaghan Kelley Meaghan.Kelley@vermont.gov	State Program Manager: Lisa Hurteau Lisa.Hurteau@vermont.gov	Contractor: Dan Hardin dhardin@changehealthcare.com
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Notices to The Parties Under This Agreement

To the extent notices are made under this agreement, the parties agree that such notices shall only be effective if sent to the following persons as representative of the parties:

	STATE REPRESENTATIVE	CONTRACTOR
Name	Department of Vermont Health Access (DVHA) Legal	Change Healthcare Pharmacy Solutions, Inc.
Address	280 State Drive, NOB 1 South Waterbury, VT 05671-1010	45 Commerce Drive, Suite 5 Augusta, ME 04332
Email	DVHA.Legal@vermont.gov	dhardin@changehealthcare.com

The parties agree that notices may be sent by electronic mail except for the following notices which must be sent by United States Postal Service certified mail: termination of contract, contract actions, damage claims, breach notifications, alteration of this paragraph.

- IV. Number 10. Attachments.** The Attachments and Order of Precedence in Number 10, as restated on Page 2 of Amendment 5, is hereby deleted and replaced as follows:

10. Attachments. This contract includes the following attachments, which are incorporated herein:
Attachment A - Specifications of Work to be Performed
Appendix I – Additional Scope of Work

**STATE OF VERMONT, CONTRACT FOR SERVICES
DEPARTMENT OF VERMONT HEALTH ACCESS
CHANGE HEALTHCARE PHARMACY SOLUTIONS, INC.**

**PAGE 2 OF 23
CONTRACT #34056
AMENDMENT 6**

- Appendix II – Key Service Level Requirements
- Attachment B - Payment Provisions
- Attachment C - Standard State Provisions for Contracts and Grants
- Attachment D - Other Provisions
- Attachment E - Business Associate Agreement
- Attachment F - Agency of Human Services' Customary Contract/Grant Provisions
- Attachment G - Required Forms
- Attachment H - Glossary
- Attachment I – Federal Terms Supplement

Any ambiguity, conflict or inconsistency between the documents comprising this contract shall be resolved according to the following the order of precedence of documents shall be as follows:

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

Call center employees must be hired specifically to support the State of Vermont and must be located in Vermont within 30 miles of the State's pharmacy staff offices.

V. Attachment A, Section B.I.b.i., as previously restated in Amendment 5, is hereby deleted in its entirety and replaced as follows:

- i. Operating facilities and housing daily operational staff as defined in the Staffing Plan within Vermont;

VI. Attachment A, Section B.II, Organization and Staffing, as previously restated in Amendment 5, is hereby deleted in its entirety and replaced as follows:

II. Organization and Staffing

The Contractor shall maintain organization and staffing with sufficient experience to ensure support of ongoing operations, including all deliverables and activities specified in this contract. This shall include the provision of staff at the levels, roles and responsibilities as defined in the Staffing Tables below.

- a. Staff identified as “Key Project Personnel” are instrumental and essential to the Contractor's satisfactory performance of all DDI and M&O requirements contained in this contract. Key Project Personnel shall be engaged throughout both the implementation and operations periods. Changes to the positions and responsibilities shall only be allowed with prior written permission from the State. These Key Project Personnel are to be full-time and dedicated solely to the Vermont PBMS account.
- b. Location of Contracted Functions and Personnel
 - i. The Contractor's Key Project Personnel must be able to participate in PBM-related meetings as scheduled by the State.. In person attendance of Contractor's Key Project Personnel at

**STATE OF VERMONT, CONTRACT FOR SERVICES
DEPARTMENT OF VERMONT HEALTH ACCESS
CHANGE HEALTHCARE PHARMACY SOLUTIONS, INC.**

**PAGE 3 OF 23
CONTRACT #34056
AMENDMENT 6**

- meetings shall be at the discretion of the State.
- ii. The State shall not provide facilities for Contractor Key Project Personnel. Work must be performed during normal business hours, 8:00 AM until 4:30 PM Eastern Time, Monday through Friday except State of Vermont holidays.
 - iii. The State and the Contractor shall establish appropriate protocols to ensure that physical property/facility security and data confidentiality safeguards are maintained. Access to any non-Vermont facility used to support the Medicaid Enterprise shall be reviewed and granted or denied within five workdays of the request.
- c. The Contractor must ensure Key Project Personnel have, and maintain, relevant current license(s) and/or certification(s).
 - d. The Contractor shall seek and receive State approval before hiring or replacing any Key Project Personnel and all Vermont-based staff. The Contractor shall remove Key Project Personnel, if requested by the State, as well as develop a plan for the replacement of that Key Project Personnel, to be approved by the State, all within two (2) weeks of the request for removal.
 - e. The Contractor must provide the State with written notification of anticipated vacancies of Key Project Personnel within two business days of receiving the individual's resignation notice, the Contractor's notice to terminate an individual, or the position otherwise becoming vacant. Replacements for Key Project Personnel shall have qualifications that meet or exceed those of prior approved staff and shall be subject to approval by the State. Final hiring decisions will be subject to the prior approval of the State. The Contractor shall provide the State with status update reports every 30 days on the progress of the replacement candidate recruiting process until a qualified candidate is hired. The Contractor shall have in place a qualified replacement within ninety (90) calendar days of the last day of employment of the departing Key Project Personnel. The Contractor agrees that the provision of replacement resources with equivalent skill shall be made at no additional charge.

Personnel Level	Role	Description
Key Project Personnel	Account Director	<ul style="list-style-type: none"> • Contract Management • Contract Negotiations • Provides contract management • Executive level oversight • Conflict resolution • Change management final approval • Primary point of contact with the State's Contract Administrator, Pharmacy Director and other State Executive Sponsors for activities related to contract administration, overall project management and scheduling, correspondence between the State and the Contractor, dispute resolution, and status reporting to the State for the duration of the contract • Authorized to commit the resources of the Contractor in matters pertaining to the implementation performance of the contract • Responsible for addressing any issues that cannot be resolved with the Contractor's Account Manager • Does not have to work 100% on site with the State
Key Project Personnel	Sr. Account Pharmacy	<ul style="list-style-type: none"> • PBM Business expert

STATE OF VERMONT, CONTRACT FOR SERVICES
DEPARTMENT OF VERMONT HEALTH ACCESS
CHANGE HEALTHCARE PHARMACY SOLUTIONS, INC.

PAGE 4 OF 23
CONTRACT #34056
AMENDMENT 6

Personnel Level	Role	Description
	Manager	<ul style="list-style-type: none"> • Contract Negotiations • Provides contract management • Oversees clinical management of all PBM programs and resources • Senior clinical pharmacy expert in the area of Pharmacy Benefits Management systems • Advises the State regarding best practices and recommends modifications to business processes • Acquire, analyze, and present information regarding pharmacy benefit management “best practices” • Provide expert guidance ensuring that pharmacy policy and business rules from the current Pharmacy Benefits program are correctly implemented in the Contractor’s solution • Advises the State regarding best practices and recommends modifications to business processes • Oversees Account Manager and Clinical Pharmacy Manager • Does not have to work 100% on site with the State
Key Project Personnel	Account Manager	<ul style="list-style-type: none"> • Management of the project • Chief liaison for the State for project activities • Day-to-day project decisions • Organizing the project, and managing the team • Direct the planning, design, development, implementation of programs • Ensures all information and documents for programs and services are in compliance • Scheduling and reporting project activities • Provides support to resolve provider issues • Manage all activities in the project management plans • Expected to organize and lead bi-weekly status meetings, monthly milestone meetings, as well as interim meetings. Shall assign Contractor staff to those meetings as appropriate. Shall provide an agenda and develop minutes for each meeting. Shall attend meetings in person at the State’s discretion. • Participates in developing, implementing, and maintaining cost-effective programs and strategies to provide value added services to the Department • Provide expert guidance ensuring that pharmacy policy and business rules from the current Pharmacy Benefits program are correctly implemented in the Contractor’s solution • Advises the State regarding best practices and recommends modifications to business processes which improve the overall Pharmacy Benefits program • Provides support to resolve provider issues • Is expected to work 100% in Vermont

STATE OF VERMONT, CONTRACT FOR SERVICES
DEPARTMENT OF VERMONT HEALTH ACCESS
CHANGE HEALTHCARE PHARMACY SOLUTIONS, INC.

PAGE 5 OF 23
CONTRACT #34056
AMENDMENT 6

Personnel Level	Role	Description
Key Project Personnel	Clinical Pharmacist Manager	<ul style="list-style-type: none"> • Mentors pharmacy interns during experiential rotations • Provide drug information to support clinical initiatives • Provide assistance on HCPCS & CPT coding pertaining to drugs • Monitor drug utilization trends & make clinically/financially sound recommendations to the State • Support pro-DUR and retro-DUR activities & provider communications • DUR Board coordination and support • Acquire, analyze, and present information regarding pharmacy benefit management “best practices” • Support drug appeals • Resolve provider issues • Analyze utilization data, prior authorization data and other clinical program data to assess the need for changes • Is expected to work 100% in Vermont
Key Project Personnel	VT Data Analyst	<ul style="list-style-type: none"> • Responsible for all State data requirements and reporting needs • Provides ad hoc reporting as requested by Pharmacy Benefits Management staff • Ensure the integrity of pharmacy data used in claims processing • Management of procedures associated with systems change orders • Management of requests for claims adjustments • Informational resource pertaining to inquiries, system configuration, and data files • Does not have to work 100% on site with the State
	Rebate Negotiations Pharmacist	<ul style="list-style-type: none"> • SSDC support. • Clinical review of new drugs • Pricing • Negotiation of supplemental rebates with drug manufacturers for both the SSDC multistate pool and State • Advises State on Preferred Drug List strategies, taking into account changes in the drug marketplace (such as drug shortages, price/rebate changes, recent and expected brand and generic drug launches), market share shifts and clinical evidence. • Monitors and analyzes state and federal legislation and policies affecting Medicaid pharmacy • Presents supplemental rebate information, cost modeling and PDL recommendations to State DUR Board, as well as to the SSDC states during their annual meeting.
	Physician Support	<ul style="list-style-type: none"> • Medical Director guidance to State pharmacy clinical program • Provides assistance on HCPCS & CPT coding pertaining to drugs • Clinical input – PDL, DUR, SSDC support • Oversees clinical aspects of the pharmacy benefits • Recommends both pro-DUR and retro-DUR criteria

STATE OF VERMONT, CONTRACT FOR SERVICES
DEPARTMENT OF VERMONT HEALTH ACCESS
CHANGE HEALTHCARE PHARMACY SOLUTIONS, INC.

PAGE 6 OF 23
CONTRACT #34056
AMENDMENT 6

Personnel Level	Role	Description
		<ul style="list-style-type: none"> • Oversight of clinical prior authorization activities • Oversight of clinical and fiscal aspects of PDL design including supplemental rebate negotiation, and integration with State Maximum Allowable Cost activities • Active participant in DUR meetings • Oversight of all clinical activities for the Contractor, including the medical benefit management services
	VT Rebate Manager	<ul style="list-style-type: none"> • Ensures contract compliance for each Rebate account • Maintains current status of all tasks for different projects and keeps Director and other Team Leaders apprised as necessary • Identifies obstacles and helps coordinate with stakeholders to overcome them or adjust project scope for both short-term and long-term solutions • Maintains and manages project scope, updating and educating stakeholders throughout the life of each project • Previous management experience required. Excellent written and verbal communication skills required. Demonstrated ability to meet deadlines. Experience with technical writing and user documentation design required. • Must have experience with a Data Processing type environment. • Must be able to communicate and work with a variety of personnel to accomplish project goals. • Must have excellent and proven abilities to work with a variety of people; successfully manage relations and tasks in a positive and thriving manner.
	VT Rebate SR Supervisor	<ul style="list-style-type: none"> • Day to day operations and oversight of the VT PBMS Rebate Team • Assists rebate staff and support personnel in understanding their assigned tasks and ensuring that they are completed on time and in the manner expected
	Vermont Based Staff	<ul style="list-style-type: none"> • Three PA Pharmacists • PCM/MTM Pharmacist-On site or Off site • Five Help Desk Pharmacy Technicians

VII. Attachment B, Payment Provisions. The payment provisions are amended as follows:

1. Number 5 is deleted and replaced as follows:
 5. All rates set forth in this contract are all-inclusive. No expenses inclusive of travel to in person meetings, benefits, or insurance will be deemed reimbursable to the Contractor by the State under this contract.
2. Number 7 (Table B-1: Total Cost Summary), as restated in Amendment 5, is deleted and replaced as shown in Appendix A of this Amendment 6.

STATE OF VERMONT, CONTRACT FOR SERVICES
DEPARTMENT OF VERMONT HEALTH ACCESS
CHANGE HEALTHCARE PHARMACY SOLUTIONS, INC.

PAGE 7 OF 23
CONTRACT #34056
AMENDMENT 6

3. Number 8 (Contingency Funds), as restated in Amendment 5, is deleted and replaced as shown in Appendix A of this Amendment 6.
4. Number 10 (Table B-3: PBM Operations), as restated in Amendment 5, is deleted and replaced as shown in Appendix A of this Amendment 6.

VIII. Attachment E, Business Associate Agreement. Attachment E is hereby deleted in its entirety and replaced by the Attachment E (Rev. May 22, 2020 with revisions) as attached to this Amendment.

Taxes Due to the State. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, the Contractor is in good standing with respect to, or in full compliance with a plan to pay, any and all taxes due the State of Vermont.

Child Support (Applicable to natural persons only; not applicable to corporations, partnerships or LLCs). Contractor is under no obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date of this amendment.

Certification Regarding Suspension or Debarment. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, neither Contractor nor Contractor's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

Contractor further certifies under pains and penalties of perjury that, as of the date this contract amendment is signed, Contractor is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing-contracting/debarment>

Cybersecurity Standard Update 2022-01. Contractor confirms that all products and services provided to or for the use of the State under this Agreement shall be in compliance with *State of Vermont Cybersecurity Standard Update 2022-01*, which prohibits the use of certain branded products in State information systems or any vendor system that is supporting State information systems, and is available on-line at: <https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>.

State and Federal Terms for Products and Services. Contractor agrees that "STATE OF VERMONT-FEDERAL TERMS SUPPLEMENT (Non-Construction) for all Contracts and Purchases of Products and Services Using Federal Funds (Revision date: July 28, 2022)" which is attached as Attachment I to this amendment, applies to any products or services provided to the State, at any time, when using federal funds.

**STATE OF VERMONT, CONTRACT FOR SERVICES
DEPARTMENT OF VERMONT HEALTH ACCESS
CHANGE HEALTHCARE PHARMACY SOLUTIONS, INC.**


**PAGE 8 OF 23
CONTRACT #34056
AMENDMENT 6**

This document consists of 23 pages. Except as modified by this Amendment No. 6, all provisions of the Contract remain in full force and effect.


The signatures of the undersigned indicate that each has read and agrees to be bound by this Amendment to the Contract.

BY THE STATE OF VERMONT:

BY THE CONTRACTOR:

DocuSigned by:

3/24/2023
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Andrea DeLaBruere Date
DVHA Commissioner
NOB 1 South
280 State Drive
Waterbury, VT 05671-1010
Phone: 802-585-5356
Email: andrea.delabruere@vermont.gov

DocuSigned by:

3/24/2023
F314CE79047844D...

Dan Hardin, SVP & General Manager Date
Change Healthcare Pharmacy Solutions, Inc.
45 Commerce Drive, Suite 5
Augusta, ME 04332
Phone: (630)300-4407
Email: dhardin@changehealthcare.com

STATE OF VERMONT, CONTRACT FOR SERVICES
DEPARTMENT OF VERMONT HEALTH ACCESS
CHANGE HEALTHCARE PHARMACY SOLUTIONS, INC.

PAGE 9 OF 23
CONTRACT #34056
AMENDMENT 6

APPENDIX A

7. Table B-1: Total Cost Summary

Description	Total One-time Costs	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Option Year 11	Total Costs
Time Period	5/2014-12/2014	1/1/15-12/31/15	1/1/16-12/31/16	1/1/17-12/31/17	1/1/18-12/31/18	1/1/19-12/31/19	1/1/20-12/31/20	1/1/21-12/31/21	1/1/22-12/31/22	1/1/23-12/31/24	1/1/24-12/31/24	1/1/25-12/31/25	
Implementation / Configuration	\$2,018,775.75	-	-	-	-	-	-	-	-	-	-	-	\$2,018,775.75
Contingency (Budget for Unanticipated Tasks)	\$10,047.50	-	-	-	-	-	-	-	-	-	-	-	\$10,047.50
Total DDI	\$2,028,823.25	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$2,028,823.25
Claims Processing and Operational Support	-	\$1,243,053.84	\$1,289,683.30	\$1,252,758.58	\$1,219,894.73	\$1,340,798.30	\$1,529,436.10	\$1,565,913.50	\$1,603,519.08	\$1,863,870.99	\$1,957,064.54	\$2,054,917.77	\$16,920,910.73
Clinical Program Management and Support	-	\$1,103,679.76	\$1,146,248.42	\$1,104,065.24	\$1,065,810.74	\$1,183,159.35	\$1,313,149.65	\$1,388,885.85	\$1,470,495.30	\$1,617,544.83	\$1,698,422.07	\$1,783,343.17	\$14,874,804.38
Financial Support Services	-	\$689,329.80	\$715,973.94	\$689,169.76	\$664,836.77	\$738,616.62	\$761,460.43	\$785,010.75	\$809,289.45	\$890,218.37	\$934,729.30	\$981,465.77	\$8,660,100.96
Medication Therapy Management Program-Medicaid ((\$125 per Utilizing Member per Month)	-	\$425,000.00	\$437,750.00	\$450,882.50	\$464,408.98	\$478,341.25	\$493,185.49	\$508,322.36	\$524,047.22	\$576,451.94	\$605,274.54	\$635,538.27	\$5,599,202.55
M&O Contingency	-	\$113,348.90	\$116,749.39	\$120,251.87	\$123,859.43	\$127,575.21	\$131,402.47	\$135,344.54	\$139,404.88	\$153,345.37	\$161,012.64	\$169,063.27	\$1,491,357.97
SOC 2, Type 1 and 2 Audits(SOC 2, Type 1 audit takes place in 2019, SOC 2 Type 2 audits beginning in year 2020)	-	-	-	-	-	-	\$110,000.00	\$110,000.00	\$110,000.00	\$110,000.00	\$110,000.00	\$110,000.00	\$660,000.00
eCOB Costs (further detail broken out in Table B-3)	-	-	-	\$1,309,536.00	\$708,664.00	\$410,051.50	\$430,465.50	\$451,511.00	\$485,303.70	\$521,123.74	\$547,179.92	\$574,538.92	\$5,438,374.27
Total O&M	0	\$3,574,412.30	\$3,706,405.05	\$4,926,663.95	\$4,247,474.65	\$4,278,542.23	\$4,769,099.64	\$4,944,988.00	\$5,142,059.63	\$5,732,555.24	\$6,013,683.01	\$6,308,867.17	\$53,644,750.86
Total Costs including One-time Costs and Ongoing Costs	\$2,028,823.25	\$3,574,412.30	\$3,706,405.05	\$4,926,663.95	\$4,247,474.65	\$ 4,278,542.23	\$4,769,099.64	\$4,944,988.00	\$5,142,059.63	\$5,732,555.24	\$6,013,683.01	\$6,308,867.17	\$55,673,574.11

Category FY2020: PA - Electronic POS \$0.89 per PA, Manual/Call Center \$13.93 per PA; Electronic Medical Record/Electronic Health Record \$0.11 per transaction. MTM Program: \$135.32 PUMPM

8. Contingency Funds Work performed under the contingency line items called out in Table B-1 shall not exceed \$1,491,357.96. The contingency line items may be billed by deliverable, fixed price or by Customer Service (CSRs) hour as requested by the State. The Parties may initiate the CSR process leading to a new project need by utilizing the Change Management Process in Attachment A, Section C. CSR hours will be billed per hour as utilized. As of May 1, 2014, the base rate for CSR hours is \$108.25. Effective January 1, 2015 through December 31, 2022, the hourly rate for billable project CSR hours will be increased from the 2014 base rate of \$108.25 per hour at the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) inflation rate and the per- hour State reimbursement for any hours remaining at the termination of the contract will also be increased at the CPI-W inflation rate. CSR hours are not expended for new project proposal development as indicated below. Beginning January 1, 2023, the CSR hourly rate shall be \$175.00. Beginning January 1, 2024, the CSR hourly rate shall be \$185.00. Beginning January 1, 2025, the CSR hourly rate shall be \$195.00.

The Contractor agrees to provide the following number of CSRs hours to the State:

Between May 1, 2014 and December 31, 2014, the Contractor shall allow the State up to 1,017 CSR hours.

Between January 1, 2015 and December 31, 2015, and each calendar year thereafter, the Contractor shall allow the State up to 1,017 CSR hours annually.

STATE OF VERMONT, CONTRACT FOR SERVICES
 DEPARTMENT OF VERMONT HEALTH ACCESS
 CHANGE HEALTHCARE PHARMACY SOLUTIONS, INC.

PAGE 11 OF 23
 CONTRACT #34056
 AMENDMENT 6

10. Table B-3 outlines the details for payment for Operations and Maintenance years 1-11 (\$52,153,392.89) and a contingency amount (\$1,491,357.96).

Table B-3 PBM Operations

Description	Unit of Measure	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Optional Year 11	TOTAL
		CY2015	CY2016	CY2017	CY2018	CY2019	CY2020	CY2021	CY2022	CY2023	CY2024	CY2025	COSTS
Claims Processing and Operational Support		\$1,243,053.84	\$1,289,683.30	\$1,252,758.58	\$1,219,894.73	\$1,340,798.30	\$1,529,436.10	\$1,565,913.50	\$1,603,519.08	\$1,863,870.99	\$1,957,064.54	\$2,054,917.77	\$16,920,910.73
POS Claims Processing (includes eligibility, adjudication, pricing, FUL, SMAC, 340B, COB, benefit design, Pro-DUR, all other edits, audits, restrictions) *	per month	\$689,329.92	\$715,973.94	\$689,169.76	\$664,836.77	\$730,737.74	\$753,317.25	\$776,615.72	\$800,634.77	\$1,015,698.25	\$1,083,983.16	\$1,155,682.32	\$9,075,979.60
Provider Support: Provider Portals, Provider Support, Call Center(s)-Technical and Clinical, Provider Communications	per month	\$389,923.92	\$404,995.36	\$389,833.40	\$376,069.28	\$413,335.28	\$426,118.85	\$439,297.78	\$452,884.31	\$498,172.74	\$523,081.38	\$549,235.45	\$4,862,947.75
Electronic Prescribing Support and Interface*	per transaction	\$163,800.00	\$168,714.00	\$173,755.42	\$178,988.68	\$196,725.28	\$350,000.00	\$350,000.00	\$350,000.00	\$350,000.00	\$350,000.00	\$350,000.00	\$2,981,983.38
*variable based on utilization of prescriber base													
Clinical Program Management and Support		\$1,103,679.76	\$1,146,248.42	\$1,104,065.24	\$1,065,810.74	\$1,183,159.35	\$1,313,149.65	\$1,388,885.85	\$1,470,495.30	\$1,617,544.83	\$1,698,422.07	\$1,783,343.17	\$14,874,804.38
Prior Authorization - Electronic POS (Drug and Medical Look-Back) *Maximum ceiling fee	per claim	\$206,798.96	\$214,792.18	\$206,750.93	\$199,451.03	\$221,411.12	\$228,258.81	\$235,318.44	\$242,596.02	\$266,855.62	\$280,198.40	\$294,208.32	\$2,596,639.83
Prior Authorization - Manual/Call Center *No maximum ceiling fee	per claim	\$357,198.20	\$371,004.68	\$357,115.24	\$344,506.33	\$382,437.40	\$487,663.20	\$537,868.80	\$593,158.45	\$652,474.30	\$685,098.01	\$719,352.91	\$5,487,877.52
Prior Authorization-Electronic Medical Record/Electronic Health Record *No maximum ceiling fee	per transaction	\$10,500.00	\$10,815.00	\$11,139.45	\$11,473.63	\$12,736.91	\$13,130.81	\$13,536.93	\$13,955.59	\$15,351.15	\$16,118.71	\$16,924.64	\$145,682.82
State Maximum Allowable Cost Program(SMAC)	per month	\$83,555.16	\$86,784.72	\$83,535.73	\$80,586.28	\$89,459.04	\$92,225.82	\$95,078.16	\$98,018.73	\$107,820.60	\$113,211.63	\$118,872.21	\$1,049,148.08
All other Clinical Programs and Services: PDL Management, Utilization Management, Retrospective Drug Utilization Review, DUR Board Support, Appeals Support, Specialty Pharmacy programs, Consultative Support	per month	\$445,627.44	\$462,851.84	\$445,523.89	\$429,793.47	\$477,114.88	\$491,871.01	\$507,083.52	\$522,766.51	\$575,043.16	\$603,795.32	\$633,985.09	\$5,595,456.13
Financial Support Services		\$689,329.80	\$715,973.94	\$689,169.76	\$664,836.77	\$738,616.62	\$761,460.43	\$785,010.75	\$809,289.45	\$890,218.37	\$934,729.30	\$981,465.77	\$8,660,100.96
Management of State and Federal rebate programs	per month	\$612,737.64	\$636,421.28	\$612,595.35	\$590,966.04	\$656,548.13	\$676,853.74	\$697,787.36	\$719,368.42	\$791,305.24	\$830,870.51	\$872,414.04	\$7,697,867.75
Administration and support of Supplemental rebate program	per month	\$41,777.52	\$43,392.36	\$41,767.86	\$40,293.13	\$44,764.64	\$46,149.11	\$47,576.40	\$49,047.84	\$53,952.62	\$56,650.26	\$59,482.77	\$524,854.51
Analytics and reporting	per month	\$34,814.64	\$36,160.30	\$34,806.55	\$33,577.60	\$37,303.85	\$38,457.58	\$39,646.99	\$40,873.19	\$44,960.51	\$47,208.53	\$49,568.96	\$437,378.70

STATE OF VERMONT, CONTRACT FOR SERVICES
DEPARTMENT OF VERMONT HEALTH ACCESS
CHANGE HEALTHCARE PHARMACY SOLUTIONS, INC.

PAGE 12 OF 23
CONTRACT #34056
AMENDMENT 6

Other Services		\$538,348.90	\$554,499.39	\$1,880,670.37	\$1,296,932.41	\$1,015,967.96	\$1,165,053.46	\$1,205,177.90	\$1,258,755.80	\$1,360,921.05	\$1,423,467.10	\$1,489,140.46	\$13,188,934.79
Medication Therapy Management Program-Medicaid <i>*Maximum ceiling fee</i> \$125 per utilizing Member per month	Per Utilizing Member Per Month	\$425,000.00	\$437,750.00	\$450,882.50	\$464,408.98	\$478,341.25	\$493,185.49	\$508,322.36	\$524,047.22	\$576,451.94	\$605,274.54	\$635,538.27	\$5,599,202.55
M&O Contingency	As Utilized	\$113,348.90	\$116,749.39	\$120,251.87	\$123,859.43	\$127,575.21	\$131,402.47	\$135,344.54	\$139,404.88	\$153,345.37	\$161,012.64	\$169,063.27	\$1,491,357.97
eCOB Costs 1/1/15 – 6/30/17 \$35.30 per avoided claim, not to exceed 30,000 claims (paid out in Year 3)	Per verified cost avoided transaction	-	-	\$1,059,000.00	-	-	-	-	-	-	-	-	\$1,059,000.00
eCOB costs 7/1/17 – 6/30/18 \$37.96 per avoided claim, not to exceed 20,000 claims	Per verified cost avoided transaction	-	-	\$250,536.00	\$508,664.00	-	-	-	-	-	-	-	\$759,200.00
eCOB costs 7/1/18 – 6/30/19 \$41.03 per avoided claim, based on variable claim volume	Per verified cost avoided transaction	-	-	-	\$200,000.00	\$200,000.00	-	-	-	-	-	-	\$400,000.00
eCOB costs 7/1/19 – 6/30/20 \$44.36 per avoided claim, based on variable claim volume	Per verified cost avoided transaction	-	-	-	-	\$210,051.50	\$210,051.50	-	-	-	-	-	\$420,103.00
eCOB costs 7/1/20 – 6/30/21 \$47.96 per avoided claim, based on variable claim volume	Per verified cost avoided transaction	-	-	-	-	-	\$220,414.00	\$220,414.00	-	-	-	-	\$440,828.00
eCOB costs 7/1/21 – 12/31/25 \$51.85 per avoided claim, based on variable claim volume	Per verified cost avoided transaction	-	-	-	-	-	-	\$231,097.00	\$485,303.70	\$521,123.74	\$547,179.92	\$574,538.92	\$2,359,243.27
SOC 2, Type 1 and 2 Audits (SOC 2, Type 1 audit takes place in 2019, SOC 2 Type 2 audits beginning in year 2020)	Annually	-	-	-	-	-	\$110,000.00	\$110,000.00	\$110,000.00	\$110,000.00	\$110,000.00	\$110,000.00	\$660,000.00
Total PBM Operations		\$3,574,412.30	\$3,706,405.05	\$4,926,663.95	\$4,247,474.65	\$4,278,542.23	\$4,769,099.64	\$4,944,988.00	\$5,142,059.63	\$5,732,555.24	\$6,013,683.01	\$6,308,867.17	\$53,644,750.86

ATTACHMENT E
BUSINESS ASSOCIATE AGREEMENT

SOV CONTRACTOR: Change Healthcare Pharmacy Solutions, Inc.

SOV CONTRACT No. 34056 CONTRACT Effective DATE: May 1, 2012

THIS BUSINESS ASSOCIATE AGREEMENT (“AGREEMENT”) IS ENTERED INTO BY AND BETWEEN THE STATE OF VERMONT AGENCY OF HUMAN SERVICES, OPERATING BY AND THROUGH ITS **DEPARTMENT OF VERMONT HEALTH ACCESS** (“COVERED ENTITY”) AND PARTY IDENTIFIED IN THIS AGREEMENT AS CONTRACTOR OR GRANTEE ABOVE (“BUSINESS ASSOCIATE”). THIS AGREEMENT SUPPLEMENTS AND IS INCORPORATED INTO THE CONTRACT OR GRANT (“CONTRACT OR GRANT”) TO WHICH IT IS ATTACHED.

Covered Entity and Business Associate enter into this Agreement to comply with the standards promulgated under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), including the Standards for the Privacy of Individually Identifiable Health Information, at 45 CFR Parts 160 and 164 (“Privacy Rule”), and the Security Standards, at 45 CFR Parts 160 and 164 (“Security Rule”), as amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act (HITECH), and any associated federal rules and regulations.

The parties agree as follows:

1. Definitions. All capitalized terms used but not otherwise defined in this Agreement have the meanings set forth in 45 CFR Parts 160 and 164 as amended by HITECH and associated federal rules and regulations. Terms defined in this Agreement are italicized. Unless otherwise specified, when used in this Agreement, defined terms used in the singular shall be understood if appropriate in their context to include the plural when applicable.

“*Agent*” means an *Individual* acting within the scope of the agency of the *Business Associate*, in accordance with the Federal common law of agency, as referenced in 45 CFR § 160.402(c) and includes Workforce members and *Subcontractors*.

“*Breach*” means the acquisition, Access, Use or Disclosure of *Protected Health Information (PHI)* which compromises the Security or privacy of the *PHI*, except as excluded in the definition of *Breach* in 45 CFR § 164.402.

“*Business Associate*” shall have the meaning given for “Business Associate” in 45 CFR § 160.103 and means Contractor or Grantee and includes its Workforce, *Agents* and *Subcontractors*.

“*Electronic PHI*” shall mean *PHI* created, received, maintained or transmitted electronically in accordance with 45 CFR § 160.103.

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

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

“*Required by Law*” means a mandate contained in law that compels an entity to make a use or disclosure of *PHI* and that is enforceable in a court of law and shall have the meaning given in 45 CFR § 164.103.

“*Report*” means submissions required by this Agreement as provided in section 2.3.

“*Security Incident*” means the attempted or successful unauthorized Access, Use, Disclosure, modification, or destruction of Information or interference with system operations in an Information System relating to *PHI* in accordance with 45 CFR § 164.304.

“*Services*” includes all work performed by the *Business Associate* for or on behalf of Covered Entity that requires the Use and/or Disclosure of *PHI* to perform a *Business Associate* function described in 45 CFR § 160.103.

“*Subcontractor*” means a Person to whom *Business Associate* delegates a function, activity, or service, other than in the capacity of a member of the workforce of such *Business Associate*.

“*Successful Security Incident*” shall mean a *Security Incident* that results in the unauthorized Access, Use, Disclosure, modification, or destruction of information or interference with system operations in an Information System.

“*Unsuccessful Security Incident*” shall mean a *Security Incident* such as routine occurrences that do not result in unauthorized Access, Use, Disclosure, modification, or destruction of information or interference with system operations in an Information System, such as: (i) unsuccessful attempts to penetrate computer networks or services maintained by *Business Associate*; and (ii) immaterial incidents such as pings and other broadcast attacks on *Business Associate's* firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above with respect to *Business Associate's* Information System.

“*Targeted Unsuccessful Security Incident*” means an *Unsuccessful Security Incident* that an IT professional reasonably determines to be an attempt to obtain unauthorized Access, Use, Disclosure, modification or destruction of the Covered Entity’s *Electronic PHI*.

2. Contact Information for Privacy and Security Officers and Reports.

2.1 *Business Associate* shall provide, within ten (10) days of the execution of this Agreement, written notice to the Contract or Grant manager the names and contact information of both the HIPAA Privacy Officer and HIPAA Security Officer of the *Business Associate*. This information must be updated by *Business Associate* any time these contacts change.

2.2 Covered Entity’s HIPAA Privacy Officer and HIPAA Security Officer contact information is posted at: <https://humanservices.vermont.gov/rules-policies/health-insurance-portability-and-accountability-act-hipaa>

2.3 *Business Associate* shall submit all *Reports* required by this Agreement to the following email address: AHS.PrivacyAndSecurity@vermont.gov

3. Permitted and Required Uses/Disclosures of PHI.

3.1 Subject to the terms in this Agreement, *Business Associate* may Use or Disclose *PHI* to perform *Services*, as specified in the Contract or Grant. Such Uses and Disclosures are limited to the minimum necessary to provide the *Services*. *Business Associate* shall not Use or Disclose *PHI* in any manner that would constitute a violation of the Privacy Rule if Used or Disclosed by Covered Entity in that manner. *Business Associate* may not Use or Disclose *PHI* other than as permitted or required by this Agreement or as *Required by Law* and only in compliance with applicable laws and regulations.

3.2 *Business Associate* may make *PHI* available to its Workforce, *Agent* and *Subcontractor* who need Access to perform *Services* as permitted by this Agreement, provided that *Business Associate* makes them aware of the Use and Disclosure restrictions in this Agreement and binds them to comply with such restrictions.

3.3 *Business Associate* shall be directly liable under HIPAA for impermissible Uses and Disclosures of *PHI*.

4. Business Activities. *Business Associate* may Use *PHI* if necessary for *Business Associate's* proper management and administration or to carry out its legal responsibilities. *Business Associate* may Disclose *PHI* for *Business Associate's* proper management and administration or to carry out its legal responsibilities if a Disclosure is *Required by Law* or if *Business Associate* obtains reasonable written assurances via a written agreement from the Person to whom the information is to be Disclosed that such *PHI* shall remain confidential and be Used or further Disclosed only as *Required by Law* or for the purpose for which it was Disclosed to the Person, and the Agreement requires the Person to notify *Business Associate*, within five (5) business days, in writing of any *Breach* of Unsecured *PHI* of which it is aware. Such Uses and Disclosures of *PHI* must be of the minimum amount necessary to accomplish such purposes.

5. Electronic PHI Security Rule Obligations.

5.1 With respect to *Electronic PHI*, *Business Associate* shall:

- a) Implement and use Administrative, Physical, and Technical Safeguards in compliance with 45 CFR sections 164.308, 164.310, and 164.312;
- b) Identify in writing upon request from Covered Entity all the safeguards that it uses to protect such *Electronic PHI*;
- c) Prior to any Use or Disclosure of *Electronic PHI* by an *Agent* or *Subcontractor*, ensure that any *Agent* or *Subcontractor* to whom it provides *Electronic PHI* agrees in writing to implement and use Administrative, Physical, and Technical Safeguards that reasonably and appropriately protect the Confidentiality, Integrity and Availability of *Electronic PHI*. *Business Associate* shall use reasonable efforts to amend existing written agreements to comply with this provision within 90 days of execution of this Amendment #6 and, for any new written agreement executed after the date of this Amendment #6 must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of

the agreement concerning the Use or Disclosure of *Electronic PHI*, and be provided to Covered Entity upon request;

- d) Report in writing to Covered Entity any *Successful Security Incident* or *Targeted Unsuccessful Security Incident* as soon as it becomes aware of such incident and in no event later than five (5) business days after such awareness. Such *Report* shall be timely made notwithstanding the fact that little information may be known at the time of the *Report* and need only include such information then available;
- e) Following such *Report*, provide Covered Entity with the information necessary for Covered Entity to investigate any such incident; and
- f) Continue to provide to Covered Entity information concerning the incident as it becomes available to it.

5.2 Reporting *Unsuccessful Security Incidents*. *Business Associate* shall provide Covered Entity upon written request a *Report* that may: (a) identify categories of Unsuccessful Security Incidents; (b) indicate whether *Business Associate* believes its current defensive security measures are adequate to address all *Unsuccessful Security Incidents*, given the scope and nature of such attempts; and (c) indicate whether security measures are not adequate, and if inadequate, the *Business Associate* will implement measures to address the security inadequacies.

5.3 *Business Associate* shall have appropriate administrative safeguards in place to comply with the Security Rule. *Business Associate* shall comply with any additional, reasonable and applicable policies and procedures Covered Entity implements that are necessary for *Business Associate* to obtain compliance under the Security Rule.

6. **Reporting and Documenting Breaches.**

6.1 *Business Associate* shall *Report* to Covered Entity any *Breach* of Unsecured *PHI* as soon as it, or any Person to whom *PHI* is disclosed under this Agreement, becomes aware of any such *Breach*, and in no event later than five (5) business days after such awareness, except when a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security. Such *Report* shall be timely made notwithstanding the fact that little information may be known at the time of the *Report* and need only include such information then available.

6.2 Following the *Report* described in 6.1, *Business Associate* shall conduct a risk assessment and provide Covered Entity with a summary of the event. *Business Associate* shall provide Covered Entity with the names of any *Individual* whose Unsecured *PHI* has been, or is reasonably believed to have been, the subject of the *Breach* and any other available information that is required to be given to the affected *Individual*, as set forth in 45 CFR § 164.404(c). Upon reasonable request by Covered Entity, *Business Associate* shall provide information necessary for Covered Entity to investigate the impermissible Use or Disclosure. *Business Associate* shall continue to provide to Covered Entity information concerning the *Breach* as it becomes available.

6.3 When *Business Associate* determines that an impermissible acquisition, Access, Use or Disclosure of *PHI* for which it is responsible is not a *Breach*, and therefore does not necessitate notice to the impacted *Individual*, it shall document its assessment of risk, conducted as set forth in 45 CFR § 164.402(2). *Business Associate* shall make its risk assessment available to Covered Entity upon request.

7. **Mitigation and Corrective Action.** *Business Associate* shall mitigate, to the extent practicable, any harmful effect that is known to it of an impermissible Use or Disclosure of *PHI*, even if the impermissible Use or Disclosure does not constitute a *Breach*. *Business Associate* shall draft and carry out a plan of corrective action to address any incident of impermissible Use or Disclosure of *PHI*. *Business Associate* shall make its mitigation and corrective action plans available to Covered Entity upon request.

8. **Providing Notice of Breaches.**

8.1 If Covered Entity determines that a *Breach* of *PHI* for which *Business Associate* was responsible, and if requested by Covered Entity, *Business Associate* shall provide notice to the *Individual* whose *PHI* has been the subject of the *Breach*. When so requested, *Business Associate* shall consult with Covered Entity about the timeliness, content and method of notice, and shall receive Covered Entity's approval concerning these elements. *Business Associate* shall be responsible for the cost of notice and related remedies.

8.2 The notice to affected *Individuals* shall be provided as soon as reasonably possible and in no case later than sixty (60) calendar days after *Business Associate* reported the *Breach* to Covered Entity.

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

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

9. **Agreements with Subcontractors.** *Business Associate* shall enter into a Business Associate Agreement with any *Subcontractor* to whom it provides *PHI* to require compliance with HIPAA and to ensure *Subcontractor* complies with substantially similar terms and conditions of this Agreement. *Business Associate* must enter into such written agreement before any Use by or Disclosure of *PHI* to such *Subcontractor*. *Business Associate* shall use reasonable efforts to amend existing written agreements to comply with this provision within 90 days of execution of this Amendment #6, and for any new written agreement with *Subcontractor* executed after the date of this Amendment #6, *Business Associate* must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of the agreement concerning the Use or Disclosure of *PHI*. *Business Associate* shall provide a copy of the written agreement it enters into with a *Subcontractor* to Covered Entity upon request. *Business Associate* may not make any Disclosure of *PHI* to any *Subcontractor* without prior written consent of Covered Entity.

10. Access to PHI. To the extent *Business Associate* is the only holder of the Designated Record Set, *Business Associate* shall provide access to *PHI* in a Designated Record Set to Covered Entity or as directed by Covered Entity to an *Individual* to meet the requirements under 45 CFR § 164.524. *Business Associate* shall provide such access in the time and manner reasonably designated by Covered Entity. Within five (5) business days, *Business Associate* shall forward to Covered Entity for handling any request for Access to *PHI* that *Business Associate* directly receives from an *Individual*.

11. Amendment of PHI. To the extent *Business Associate* is the only holder of the Designated Record Set, *Business Associate* shall make any amendments to *PHI* in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR § 164.526, whether at the request of Covered Entity or an *Individual*. *Business Associate* shall make such amendments in the time and manner reasonably designated by Covered Entity. Within five (5) business days, *Business Associate* shall forward to Covered Entity for handling any request for amendment to *PHI* that *Business Associate* directly receives from an *Individual*.

12. Accounting of Disclosures. *Business Associate* shall document Disclosures of *PHI* and all information related to such Disclosures as would be required for Covered Entity to respond to a request by an *Individual* for an accounting of disclosures of *PHI* in accordance with 45 CFR § 164.528. *Business Associate* shall provide such information to Covered Entity to permit Covered Entity to respond to an accounting request. *Business Associate* shall provide such information within 20 days of receipt of a written request by Covered Entity. Within five (5) business days, *Business Associate* shall forward to Covered Entity for handling any accounting request that *Business Associate* directly receives from an *Individual*.

13. Books and Records. Subject to the attorney-client and other applicable legal privileges, *Business Associate* shall make its internal practices, books, and records (including policies and procedures and *PHI*) relating to the Use and Disclosure of *PHI* available to the Secretary of Health and Human Services (HHS) in the time and manner designated by the Secretary. *Business Associate* shall make the same information available to Covered Entity to the extent not prohibited by HHS, upon Covered Entity's request, in the time and manner reasonably designated by Covered Entity so that Covered Entity may determine whether *Business Associate* is in compliance with this Agreement.

14. Termination.

14.1 This Agreement commences on the Effective Date and shall remain in effect until terminated by Covered Entity or until all the *PHI* is destroyed or returned to Covered Entity, whichever comes first, subject to Section 18.8.

14.2 If *Business Associate* fails to comply with any material term of this Agreement, Covered Entity may provide an opportunity for *Business Associate* to cure. If *Business Associate* does not cure within the time specified by Covered Entity or if Covered Entity believes that cure is not reasonably possible, Covered Entity may immediately terminate the Contract or Grant without incurring liability or penalty for such termination. If neither termination nor cure are feasible, Covered Entity shall report the breach to the Secretary of HHS. Covered Entity has the right to seek to cure such failure by *Business Associate*.

Regardless of whether Covered Entity cures, it retains any right or remedy available at law, in equity, or under the Contract or Grant and *Business Associate* retains its responsibility for such failure.

15. Return/Destruction of PHI.

15.1 Except as provided in Sections 14 and 15.2, *Business Associate* in connection with the expiration or termination of the Contract or Grant shall return or destroy, at the discretion of the Covered Entity, *PHI* that *Business Associate* still maintains in any form or medium (including electronic) within thirty (30) days after such expiration or termination. *Business Associate* shall not retain any copies of *PHI*. *Business Associate* shall certify in writing and report to Covered Entity (1) when all *PHI* has been returned or destroyed and (2) that *Business Associate* does not continue to maintain any *PHI*. *Business Associate* is to provide this certification during this thirty (30) day period.

15.2 If *Business Associate* believes that returning or destroying *PHI* upon termination of this Agreement for any reason is infeasible, *Business Associate* shall a) report to Covered Entity any conditions that *Business Associate* believes make the return or destruction of *PHI* infeasible; and b) extend the protections of this Agreement to such *PHI* and limit further Uses and Disclosures to those purposes that make the return or destruction infeasible for so long as *Business Associate* maintains such *PHI*.

16. Penalties. *Business Associate* understands that: (a) there may be civil or criminal penalties for misuse or misappropriation of *PHI* and (b) violations of this Agreement may result in notification by Covered Entity to law enforcement officials and regulatory, accreditation, and licensure organizations.

17. Training. *Business Associate* understands its obligation to comply with the law and shall provide appropriate training and education to ensure compliance with this Agreement. If reasonably requested by Covered Entity, *Business Associate* shall participate in Covered Entity's training regarding the Use, Confidentiality, and Security of *PHI*; however, participation in such training shall not supplant nor relieve *Business Associate* of its obligations under this Agreement to independently assure compliance with the law and this Agreement.

18. Miscellaneous.

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

18.2 Each party shall cooperate with the other party to amend this Agreement from time to time as is necessary for such party to comply with the Privacy Rule, the Security Rule, or any other standards promulgated under HIPAA. This Agreement may not be amended, except by a writing signed by all parties hereto.

18.3 Any ambiguity in this Agreement shall be resolved to permit the parties to comply with the Privacy Rule, Security Rule, or any other standards promulgated under HIPAA.

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

18.5 *Business Associate* shall not have or claim any ownership of *PHI*.

18.6 *Business Associate* shall abide by the terms and conditions of this Agreement with respect to all *PHI* even if some of that information relates to specific services for which *Business Associate* may not be a “*Business Associate*” of Covered Entity under the Privacy Rule.

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

18.8 The provisions of this Agreement that by their terms encompass continuing rights or responsibilities shall survive the expiration or termination of this Agreement. For example: (a) the provisions of this Agreement shall continue to apply if Covered Entity determines that it would be infeasible for *Business Associate* to return or destroy *PHI* as provided in Section 14.2 and (b) the obligation of *Business Associate* to provide an accounting of disclosures as set forth in Section 12 survives the expiration or termination of this Agreement with respect to accounting requests, if any, made after such expiration or termination.

Rev. 05/22/2020 with State approved revisions 2/27/2023

ATTACHMENT I
STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction)
for all Contracts and Purchases of Products and Services Using Federal Funds
(Revision date: July 28, 2022)

PROCUREMENT OF RECOVERED MATERIALS

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated Items unless the products cannot be acquired-

1. Competitively within a time frame providing for compliance with the contract performance schedule;
2. Meeting contract performance requirements; or
3. At a reasonable price

Information about this requirement, along with the list of EPA-designated items, is available at the EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

The Contractor also agrees to comply with all other applicable requirements of section 6002 of the Solid Waste Disposal Act.

CLEAN AIR ACT

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

FEDERAL WATER POLLUTION CONTROL ACT

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA. a. Standard. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).

CONTRACTOR BREACH, ERRORS AND OMISSIONS

1. Any breach of the terms of this contract, or material errors and omissions in the work product of the contractor must be corrected by the contractor at no cost to the State, and a contractor may be liable for the State's costs and other damages resulting from errors or deficiencies in its performance.
2. Neither the States' review, approval or acceptance of nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract.
3. The rights and remedies of the State provided for under this contract are in addition to any other rights and remedies provided by law or elsewhere in the contract.

TERMINATION FOR CONVENIENCE

1. General
 - a. Any termination for convenience shall be effected by delivery to the Contractor an Order of Termination specifying the termination is for the convenience of the Agency, the extent to which performance of work under the Contract is terminated, and the effective date of the termination.
 - b. In the event such termination occurs, without fault and for reasons beyond the control of the Contractor, all completed or partially completed items of work as of the date of termination will be paid for in accordance with the contract payment terms.
 - c. No compensation will be allowed for items eliminated from the Contract.
 - d. Termination of the Contract, or portion thereof, shall not relieve the Contractor of its contractual responsibilities for work completed and shall not relieve the Contractor's Surety of its obligation for and concerning any just claim arising out of the work performed.
2. Contractor Obligations
After receipt of the Notice of Termination and except as otherwise directed by the State, the Contractor shall immediately proceed to:
 - a. To the extent specified in the Notice of Termination, stop work under the Contract on the date specified.
 - b. Place no further orders or subcontracts for materials, services, and/or facilities except as may be necessary for completion of such portion(s) of the work under the Contract as is (are) not terminated.
 - c. Terminate and cancel any orders or subcontracts for related to the services, except as may be necessary for completion of such portion(s) of the work under the Contract as is (are) not terminated.
 - d. Transfer to the State all completed or partially completed plans, drawings, information, and other property which, if the Contract had been completed, would be required to be furnished to the State.
 - e. Take other action as may be necessary or as directed by the State for the protection and preservation of the property related to the contract which is in the possession of the contractor and in which the State has or may acquire any interest.
 - f. Make available to the State all cost and other records relevant to a determination of an equitable settlement.

3. Claim by Contractor

After receipt of the Notice of Termination from the state, the Contractor shall submit any claim for additional costs not covered herein or elsewhere in the Contract within 60 days of the effective termination date, and not thereafter. Should the Contractor fail to submit a claim within the 60-day period, the State may, at its sole discretion, based on information available to it, determine what, if any, compensation is due the Contractor and pay the Contractor the determined amount.

4. Negotiation

Negotiation to settle a timely claim shall be for the sole purpose of reaching a settlement equitable to both the Contractor and the State. To the extent settlement is properly based on Contractor costs, settlement shall be based on actual costs incurred by the Contractor, as reflected by the contract rates. Consequential damages, loss of overhead, loss of overhead contribution of any kind, and/or loss of anticipated profits on work not performed shall not be included in the Contractor's claim and will not be considered, allowed, or included as part of any settlement.