

AMENDMENT

It is agreed by and between the State of Vermont, Department of Vermont Health Access (hereafter called the "State") and Benaissance, LLC (hereafter called the "Contractor") that the contract on the subject of administrative services generally on the subject of Premium Processing Services for the Health Benefit Exchange, effective July 1, 2015, is hereby amended effective June 30, 2016, as follows:

1. By deleting Section 3 (Maximum Amount) on page 1 of 54 of the base agreement, and substituting in lieu thereof the following Section 3:

Maximum Amount. In consideration of the services to be performed by Contract, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed **\$7,680,000**.

2. By deleting Section 4 (Contract Term) on page 1 of 54 of the base agreement, and substituting in lieu thereof the following Section 4:

Contract Term. The period of the Contractor's performance shall begin on July 1, 2015 and end on June 30, 2017 ("Term"). The State and the Contractor have the option of renewing this agreement for up to one (1) additional one-year contract term.

3. By updating Section 7 (Contacts for this Award) on pages 1-2 of 54 of the base agreement, to the following:

The contacts for this award are as follows:

	<u>State Fiscal Manager</u>	<u>State Program Manager</u>	<u>For the Contractor</u>
Name:	Susan Whitney	Lisa Schilling	Mark G. Waterstraat
Phone #:	802-241-0258	802-241-0401	402-884-7021
E-mail:	Susan.whitney@vermont.gov	Lisa.Schilling@vermont.gov	Mark.Waterstraat@Benaissance.com

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/GRANTEE
Name	Office of General Counsel	Gregory P. Lembree, Senior Vice President
Address	NOB 1 South, 280 State Drive Waterbury, VT 05671-1010	11808 Grant St, Suite 200 Omaha, NE 68164
Email	AHS.DVHALegal@vermont.gov	Greg.Lembree@Benaissance.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.

DVHA MONITORING OF CONTRACT

The parties agree that the DVHA official State Program Manager is primarily responsible for the review of invoices presented by the Contractor.

4. By updating Attachment A, Section I. (Definitions) on pages 4-5 of the base agreement to include the following definitions:

“Any Losses”: For purposes of this Amendment the term “any losses” shall refer to the State’s agreement to reimburse the Contractor for any amount refunded that becomes unsupported through the reversal of the source payment originally received by the Contractor. This can include, but is not limited to, non-sufficient funds, unknown account, closed account, customer dispute of payment or chargeback.

“Medicaid Plan Participants”: Individuals who are part of the Vermont Medicaid program.

5. By deleting the Subcontractor Requirements Section of Attachment A (Specifications of Work to be Performed) on page 12 of 54 of the base agreement, and substituting in lieu thereof the following:

Subcontractor Requirements. Per Attachment C, Section 15, if the Contractor chooses to subcontract work under this agreement, the Contractor must first fill out and submit the Department of Vermont Health Access Subcontractor Compliance Form (Appendix I – Required Forms) in order to seek approval from the State prior to signing an agreement with a third party. Upon receipt of the Subcontractor Compliance Form, the State shall review and respond within five (5) business days. Under no circumstance shall the Contractor enter into a sub-agreement without prior written authorization from the State. The Contractor shall submit the Subcontractor Compliance Form to:

Susan Whitney
Contracts and Grants Administrator
Department of Vermont Health Access (DVHA)
NOB 1 South, 280 State Drive
Waterbury, VT 05671
Susan.whitney@Vermont.gov

Should the status of any third party or Subcontractor change, the Contractor is responsible for updating the State within fourteen (14) days of said change.

6. By Deleting Attachment A Section VIII, Service Level Agreement (“Process Hardship Refunds for Active Plan Participants” and “Process Refunds for Online Payment Error for Plan Participants”) on page 5 of the base agreement and substituting in lieu thereof the following:

Process Hardship Refunds for Active Plan Participants:

Contractor shall process and provide refunds to Active Plan Participants. Contractor will provide refunds of partial or whole payments on payments originating as check, and whole payment refunds for all other payment methods. Contractor shall process refund requests on a weekly basis. Refunds will be issued in the same manner in which the customer paid or in check form in the event there is no means to refund via the original method.

The State will reimburse the Contractor's daily depository bank account ("Depository Account") any losses incurred due to the reversal of a payment deposited into the Depository Account where the refund was issued from the Depository Account prior to notification of the reversal.

7. By updating Attachment A, Section VIII, Service Level Agreements to include the following:

Generation of Partial Payment Notices:

Contractor shall ensure timely generation and mailing of partial payment notices to customers. Contractor shall generate and distribute partial payment notices to customers via US Postal Service, First Class Mail within 3 business days of receipt of partial payment. Contractor shall send all customer communications to the State in the nightly file for storage in Vermont Health Connect's system.

Refund Medicaid customer overpayments for Active Plan Participants:

Contractor shall process and provide refunds of overpayments to Medicaid Plan Participants by refunding the excess portion of the payment. Contractor shall process refund requests on a weekly basis. Refunds will be issued in the same manner in which the customer paid or in check form in the event there is no means to refund via the original method.

8. By deleting Attachment B (Payment Provisions) on pages 16-19 of 54 of the base agreement, and substituting in lieu thereof the following Attachment B beginning on page 4.

9. By deleting Attachment C (Standard State Provisions for Contracts) on pages 20-24 of 54 of the base agreement, and substituting in lieu thereof the following Attachment C beginning on page 8.

10. By deleting Attachment I Request for Approval to Subcontract on page 51 of 54 of the base agreement, and substituting in lieu thereof the following DVHA Subcontractor Compliance Form beginning on page 13.

This amendment consists of 13 pages. Except as modified by this amendment and any previous amendments, all provisions of this contract, (#28670) dated 11/3/2015 shall remain unchanged and in full force and effect.

STATE OF VERMONT
DEPARTMENT OF VERMONT HEALTH ACCESS

CONTRACTOR
BENAISSANCE, LLC

STEVEN COSTANTINO, COMMISSIONER DATE

GREGORY P. LEMBREE, SENIOR VICE PRESIDENT DATE

NOB 1 South, 280 State Drive
Waterbury, VT 05671-1010
Phone: 802-241-0239
Email: Steven.Costantino@vermont.gov
AHS/DVHA

11808 Grant Street, Suite 200
Omaha, NE 68164
Phone:
Email: Greg.Lembree@benaissance.com
CONTRACTOR

ATTACHMENT B

PAYMENT PROVISIONS

The maximum dollar amount payable under this agreement is not intended as any form of a guaranteed amount. The Contractor will be paid for products or services actually performed as specified in Attachment A up to the maximum allowable amount specified in this agreement. State of Vermont payment terms are Net 30 days from date of invoice, payments against this contract will comply with the State's payment terms. The payment schedule for delivered products, or rates for services performed, and any additional reimbursements, are included in this attachment. The following provisions specifying payments are:

Contractor invoices shall be submitted monthly and shall include the date of invoice submission to the State, an invoice number, dates of services performed, and amount billed for each budget line and total amount billed. Contractor shall be paid based on documentation and itemization of work performed and included in invoicing as required by 32 VSA §463. Invoicing must contain a detail of services including dates and hours of work performed and rates of pay. Rates are fully inclusive of travel and expenses. No benefits or insurance will be reimbursed by the State.

Upon acceptance of the required reports and deliverables the Contractor shall invoice the State for services performed. Required Reports should be submitted to:

Lisa Schilling
Financial Director III
Department of Vermont Health Access (DVHA)
NOB 1 South, 280 State Drive
Waterbury, VT 05671-1010
Lisa.Schilling@Vermont.gov

Invoices shall reference this contract number and be submitted electronically to:

Susan Whitney
Contracts and Grants Administrator
Department of Vermont Health Access (DVHA)
NOB 1 South, 280 State Drive
Waterbury, VT 05671-1010
Susan.Whitney@Vermont.gov

The total maximum amount payable under this contract shall not exceed **\$7,680,000**.

Per Person Per Month Costs: Contractor shall be paid for services based on the following rates or schedule:

Description	Year 1 (7/2015 – 6/2015)	Year 2 (7/2016 – 6/2017)	Year 3 (7/2017 – 6/2018)
Monthly fee for each active Subscriber who receives a premium invoice and/or remits a payment in the VHC Individual Exchange including partial payment notices	\$5.74 Per Subscriber Per Month	\$5.90 Per Subscriber Per Month	\$6.07 Per Subscriber Per Month
Monthly fee for each active Subscriber who does not receive a premium invoice (due to \$0 premium) in the VHC Individual Exchange	\$2.75 Per Subscriber Per Month	\$2.75 Per Subscriber Per Month	\$2.83 Per Subscriber Per Month
Monthly fee for each active Employee whose employer receives a premium invoice or remits a payment in the VHC Small Business Exchange	\$1.67 Per Employee Per Month	\$1.67 Per Employee Per Month	\$1.72 Per Employee Per Month
Monthly Minimum Bill Amount – The total monthly fee paid by DVHA to Contractor each month shall not be less than:	\$111,750 per month	\$111,750 per month	\$115,103 per month

Specialized Services: Contractor shall be paid for services based on the following rates or schedule:

With the exception of work specific to the Data Review and Correction, for any work formally requested and approved by State as defined in Attachment A, Contractor shall bill in accordance the following hourly rate card, which includes all travel expenses:

Rate Type	Rate
Technical (Architect, Developer, DBA, Infrastructure)	\$ 275.00
Analyst (Engagement Manager, Project Manager, Business Analyst, QA)	\$ 225.00
Specialist (Data Specialist, Technical Writer, Relationship/Account Manager)	\$ 200.00
Executive	\$ 525.00

For any Data Review and Correction cases formally requested and approved by State as defined in Attachment A, Contractor shall bill in accordance the following hourly rate card which includes all travel expenses:

Rate Type	Rate
Technical	\$ 150.00
Analyst	\$ 150.00
Specialist	\$ 150.00

The Contractor agrees that rate type assigned to an employee shall not be changed during the term of this agreement. All invoices for Specialized Services billed at an hourly rate shall specify the dates and times of service and include a summary of services performed.

Expenses: The fee for services shall be inclusive of expenses.

Excused Performance. Notwithstanding anything to the contrary herein, Contractor shall not be liable for performance under this Contract to the extent that the failure to perform is attributable in any material respect to delays caused by the State or its agents, representatives, resources or contractors or Force Majeure events, provided that contractor takes reasonable efforts to avoid and minimize the impact of Excused Performance.

**ATTACHMENT C: STANDARD STATE 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 this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, and in the event federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient 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.

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 coverages are 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 coverages 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 contract, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

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

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

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

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

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

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

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

- 8. Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all prior representations by the Party, including but not limited to bills, invoices, progress reports and other proofs of work.
- 9. Requirement to Have a Single Audit:** In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, the Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, 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. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. 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 shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law 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.
- 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 this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in all subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above.
- 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.
- 20. Internal Controls:** In the case that this Agreement is an award that is funded in whole or in part by Federal funds, in accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- 21. Mandatory Disclosures:** In the case that this Agreement is an award funded in whole or in part by Federal funds, in accordance with 2CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result

in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

22. Conflict of Interest: Party must disclose in writing any potential conflict of interest in accordance with Uniform Guidance §200.112, Bulletin 5 Section X and Bulletin 3.5 Section IV.B.

(End of Standard Provisions, State of Vermont – Attachment C - 9-1-2015_rev)



ATTACHMENT I
Department of Vermont Health Access
Subcontractor Compliance

Date: _____

Original Contractor/Grantee Name: _____ Contract/Grant #: _____

Subcontractor Name: _____

Scope of Subcontracted Services: _____

Is any portion of the work being outsourced outside of the United States? YES NO
(If yes, **do not proceed**)

All vendors under contract, grant, or agreement with the State of Vermont, are responsible for the performance and compliance of their subcontractors with the Standard State Terms and Conditions in Attachment C. This document certifies that the Vendor is aware of and in agreement with the State expectation and has confirmed the subcontractor is in full compliance (or has a compliance plan on file) in relation to the following;

- Subcontractor does not owe, is in good standing, or is in compliance with a plan for payment of any taxes due to the State of Vermont
- Subcontractor (if an individual) does not owe, is in good standing, or is in compliance with a plan for payment of Child Support due to the State of Vermont.
- Subcontractor is not on the State's disbarment list.

In accordance with State Standard Contract Provisions (Attachment C), The State may set off any sums which the subcontractor owes the State against any sums due the Vendor 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 in Attachment C.

Signature of Subcontractor

Date

Signature of Vendor

Date

Received by DVHA Business Office

Date

Required: Contractor cannot subcontract until this form has been returned to DVHA Contracts & Grants Unit