

STATE OF VERMONT
AMENDMENT TO PERSONAL SERVICES CONTRACT
BLUE CROSS AND BLUE SHIELD OF VERMONT

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CONTRACT #25194
AMENDMENT #5

AMENDMENT

It is agreed by and between the State of Vermont, Department of Vermont Health Access (hereafter called the "State") and Blue Cross and Blue Shield of Vermont (hereafter called the "Contractor") that the contract between them originally dated as of August 30, 2013, Contract #25194, on the subject of offering qualified health and dental plans on the State of Vermont's federally-mandated health exchange (the "Contract") is hereby amended effective May 5, 2017 as follows:

1. **Attachment I (Trading Partner Agreement) to the Contract is hereby deleted entirely and replaced with the following:**

Trading Partner Agreement

This Amended Trading Partner Agreement (the "Agreement") is made and entered into by and between Blue Cross Blue Shield of Vermont, ("Contractor") and the State of Vermont, Department of Vermont Health Access ("State") and is effective as of the effective date as defined herein (the "Effective Date").

WHEREAS, the parties have entered into an agreement under which Contractor offers qualified health and/or dental plans on State's federally-mandated health exchange to qualified individuals and qualified employers (the "Carrier Agreement"); and

WHEREAS, the parties wish to use this trading partner agreement to facilitate the transfer of data required by state and federal statute for the State to facilitate its Medicaid benefit coordination responsibilities; and

WHEREAS, the Carrier Agreement requires the parties to engage in HIPAA Standard Transactions and exchange electronic Protected Health Information ("ePHI") through specific mediums and in specific formats containing specific data elements all in conformity with the Health Insurance Portability and Accountability Act of 1996 as amended by the Health Information Technology for Economic and Clinical Health Act and its implementing regulations and guidance, (together, "HIPAA"); and

WHEREAS, in compliance with HIPAA, the parties wish to establish in writing the terms and conditions under which they will exchange data, including ePHI and Data for the HIPAA Standard Transactions set forth in Exhibit A; and

WHEREAS, in compliance with HIPAA, the parties wish to establish in writing the terms and conditions under which Contractor will transmit and the State will receive data that the State requires in order to execute its coordination of benefits responsibilities set forth in Exhibit C.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1: Definitions. The following terms shall have the meaning ascribed to them in this Section 1. All other terms used, but not otherwise defined shall have the meaning ascribed under HIPAA.

Code Set. "Code Set" shall have the same meaning as the term "code set" at 45 CFR § 162.103.

Companion Guide. "Companion Guide" shall refer to a set of special instructions that provide further

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guidance on how to interpret United States Department of Health and Human Services (HHS) implementation specifications.

Data. "Data" shall mean any transaction-related information provided and/or made available by either of the Parties to the other, and includes, but is not limited to, enrollment and eligibility data, claims data, PI and PHI as defined herein below. References herein to a Data condition, Data content or Data element shall have the same meaning as those terms at 45 CFR § 160.103.

Effective Date. The effective date of this agreement shall be the date of signature of this Agreement.

Electronic Data Interchange. "Electronic Data Interchange" ("EDI") shall mean the Electronic Data Interchange (EDI) Transaction Set Implementation Guide in effect on the date of a Data transmission, pursuant to HIPAA.

Electronically Maintained. "Electronically Maintained" shall refer to any information stored by a computer or on any electronic medium from which information may be retrieved by a computer, including, but not limited to, electronic memory chips, magnetic tape, magnetic disk, or compact disk optical media.

Electronically Transmitted. "Electronically Transmitted" shall refer to information exchanged with a computer or electronic device using electronic media, such as the movement of information from one location to another by magnetic or optical media, transmissions over the Internet, Extranet, leased lines, dial-up lines, and private networks. However, "Electronically Transmitted" shall exclude information exchanged using paper-to-paper facsimiles, person-to-person telephone calls, video teleconferencing, voice mail messages, telephone voice response, or "fax-back" systems.

Individual. "Individual" shall have the same meaning as the term "individual" in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g), and any amendments thereto.

Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E, and any amendments thereto.

Protected Health Information. Protected Health Information or "PHI" shall have the same meaning as the term "Protected Health Information" in 45 CFR § 160.103, including Electronic PHI as that term is defined in 45 CFR § 160.103, limited to the information created or received by State from or on behalf of Contractor.

Required By Law. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.103, and any amendments thereto.

Secretary. "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his/her designee.

Security Rule. "Security Rule" shall mean the Security Standards for the Protection of Electronic PHI at 45 CFR Part 160 and Part 164, Subparts A and C, and any amendments thereto.

Standard Transaction. "Standard Transaction" shall have the same meaning as defined in 45 CFR § 162.103."

Section 2: Obligations and Activities of State and Contractor.

a. State shall provide Contractor with detailed information and documentation regarding the compatibility

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requirements of State's computer operating system, including Data formatting information such as required file structures and field descriptions. State shall designate individuals within its organization to serve as liaisons with Contractor regarding technical matters, and user related questions.

b. Each party shall be solely responsible for all costs incurred by it to transmit, access and receive Data electronically, including, but not limited to, the costs of computers, terminals, servers, connections, modems, software and browsers that have the capability to use HIPAA mandated Code-Set Standard Transactions, and the costs of providing sufficient security measures to safeguard receipt and transmission of PHI in accordance with 42 USC § 1320d-2(d), 45 CFR § 164.530 and the regulatory requirements for Contractor to preserve the integrity and confidentiality of, and to prevent non-permitted use or unlawful disclosure of PHI.

c. Prior to the initial Data transmission for each type of Transaction, the parties will test and cooperate with one another to ensure the accuracy, timeliness, completeness, compatibility, and confidentiality of each data transmission. Contractor understands it has a responsibility to adequately test all Companion Guide rules appropriate to its activities under the Carrier Agreement. Contractor agrees to comply with requirements, scheduling and responsibilities for testing as detailed in Exhibit B. Contractor agrees to bear the costs of this Contractor's testing and to hold the State harmless for any damages caused to Contractor by Contractor's failure to test.

d. Neither party will obtain access by any means to the other's operating system or Data for any purpose other than as set forth in this Agreement. In the event that a party receives misdirected Data, the receiving party will immediately notify the sending party and delete the Data from its operating system.

e. The Contractor shall have the capacity to allow State to report an incident requiring technical support between the hours of 9:00 AM to 8:00 PM EST.

f. The Contractor must produce technical support contact information for the purposes of technical support. Technical support includes but is not limited to the supporting of the electronic communication between the parties, the ability to report any incident or problem, and the exchange of technical details to enhance or improve the security of the electronic communication. Contact information will be a phone number and email address and include hours of availability.

g. The Contractor shall provide State technical support contact information to the State contacts in accordance with Section 7(d) of this Agreement upon the signing of this Agreement. The Contractor shall immediately provide the State with written notice of any change in the Contractor's technical support information, and on each anniversary date of this Agreement for the term of this Agreement. Contractor technical support must include the following:

Contractor Information:

Contractor Tech Support Email: editechsupport@bcbsvt.com
Contractor Tech Support Contact Phone Number: (800) 334-3441, select option 2
Contractor Tech Support after hours: phone number: 802-371-3636 option 7

Privacy Officer: Rebecca Heintz
General Counsel
P.O. Box 186
Montpelier, VT 05601
(802) 371-3289 FAX No. (802) 229-0511
legaldepartment@bcbsvt.com

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h. During the term of this Agreement, Contractor shall, on or before each annual anniversary of date of this Agreement, provide the State with an annual forecast and projected schedule of regularly scheduled preventive maintenance, structured to minimize any interruption, disruption and/or degradation of the EDI. Contractor shall update and notify the State as and when any changes to such schedule are required or appropriate based upon updated information.

i. The Contractor shall immediately notify the State via confirmed email or phone if Contractor's system is unavailable.

j. Except in the case of regularly scheduled maintenance, if Contractor's system is unavailable for more than an hour, Contractor must immediately contact State and explain outage, the cause and extent of its impact and provide an estimate of resolution.

Section 3: General Use and Disclosure Provision.

a. Except as otherwise permitted in this Agreement, the parties may use or disclose PHI only as necessary to fulfill the purposes of the Carrier Agreement, the State's coordination of benefits responsibilities as provided in 33 V.S.A. § 1908, and the goals of the Vermont Health Exchange and as may otherwise be permitted in other contracts between State and Contractor, all in accordance with HIPAA, CMS interconnection standards, applicable privacy and data security standards and other applicable laws.

Section 4: Obligations of State

a. The content, condition and/or elements of the Data exchanged pursuant to this Agreement may change as a result of changes in law or regulation, or actions taken by a third party in accordance with the terms and conditions of certain health care benefits offered, or changes made to those health care benefits or to a health plan. Acceptance by State of the Data sent by Contractor electronically does not constitute a guarantee to Contractor or to any third party of payment for health care premium amounts contained in the received Data.

b. State shall provide Companion Guide requirements for EDI unique to the State including communication details for establishing connectivity and for transmission of Transactions. State shall provide no less than sixty (60) days' notice, unless otherwise mandated by state or federal law, when making changes to the Companion Guide for EDI. State shall test changes with Contractor prior to the expected go live date of additional requirements.

Section 5: Compliance with Standard Transactions. As required by law, the parties shall comply with all applicable Regulations when performing "Standard Transactions."

The parties further agree as follows:

a. **NO CHANGES.** The parties hereby agree that they will not change any definition, data condition or use of a data element or segment as proscribed in 45 CFR § 162.915(a);

b. **NO ADDITIONS.** The parties hereby agree that they will not add to any Data elements or segments to the maximum defined Data set as proscribed in 45 CFR § 162.915(b);

c. **NO UNAUTHORIZED USES.** The parties hereby agree that they will not use any code or Data elements that are either marked "not used" in the Transaction Standard's implementation

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specifications or that are not in the Transaction Standard's implementation specifications. (45 CFR § 162.915(c));

d. NO CHANGES TO MEANING OR INTENT. The parties hereby agree that they will not change the meaning or intent of any of the Transaction Standard's implementation specifications. (45 CFR § 162.915(d));

e. INCORPORATION OF MODIFICATIONS TO TRANSACTION STANDARDS. The parties acknowledge and agree that from time-to-time, the Secretary may modify and set compliance dates for the Transaction Standards. Any such modification will be automatically incorporated into this Agreement as if set forth herein. (45 CFR § 162.910);

f. STANDARD UNIQUE HEALTH IDENTIFIER FOR HEALTHCARE PROVIDERS AND EMPLOYER IDENTIFIER. The parties shall comply with all applicable provisions of 45 CFR §§ 162.402 through 162.610 in the transmission of Transactions.

Section 6: Term and Termination.

a. Term. The Term of this Agreement shall begin on the Effective Date and shall end upon termination of the Carrier Agreement.

b. Termination for Cause. Upon State learning of a material breach of a term(s) of this Agreement by Contractor, State shall do one of the following, in accordance with Article 8: "Recertification, Termination and Decertification" of the Carrier Agreement;

1. Provide an opportunity for Contractor to cure the breach or end the violation and terminate this Agreement and any other Agreement between State and Contractor if Contractor does not cure the breach or end the violation after notice from State that a breach has occurred in accordance with Article 8: "Recertification, Termination and Decertification" of the Carrier Agreement or;

2. Immediately terminate this and any other agreement between State and Contractor if Contractor has breached a material term of this Agreement and cure is not possible.

3. In the event of termination or expiration of this Agreement, the parties agree that return or destruction of the Data is not reasonably feasible. Accordingly, the receiving party will extend the protections of this Agreement and any other agreement between the parties for as long as the party maintains the Data and will limit uses and disclosures of the Data to those purposes that make return or destruction impossible, and in accordance with Attachment H, "Business Partner Agreement" of the Carrier Agreement.

Section 7: Miscellaneous.

a. Regulatory References. A reference in this Agreement to a section in HIPAA means the section currently in effect and as it may be amended from time to time.

b. Interpretation. Any ambiguity in this Agreement shall be resolved to permit the parties to comply with HIPAA.

c. No Third Party Beneficiaries. Nothing in this Agreement, either express or implied, is intended to confer, nor shall anything herein confer, upon any person other than the parties

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and their respective successors or assigns, any rights, remedies, obligations or liabilities, whatsoever.

- d. Notices. Any notice relating to this Agreement shall be in writing and transmitted by either (i) U.S. mail, first class, postage prepaid; or (ii) facsimile transmission to the addresses/telephone numbers in this section below. Notices or communications shall be deemed given in the case of transmittal by U.S. mail, on the date of receipt by the addressee; and in the case of facsimile transmission, on the date the facsimile is sent.

For Contractor:

Walter Gadowski, BCBSVT Director of Channel Services and eBusiness
P.O. Box 186
Montpelier, VT 05601-0186

General Counsel

P.O. Box 186
Montpelier, VT 05601
(802) 371-3289 FAX No. (802) 229-0511
legaldepartment@bcbsvt.com

For State:

DVHA Legal

280 State Drive, NOB 1 South
Waterbury, Vermont 05671-1010
AHS.DVHALegal@vermont.gov

Dana Houlihan, Plan Management Director

280 State Drive, NOB 1 South
Waterbury, Vermont 05671-1010
Contact Phone: 802-241-0455
Dana.Houlihan@vermont.gov

- e. Records and Audit. The parties shall maintain in accordance with applicable law and regulation, but in any event, for at least a minimum of ten (10) years, true and correct copies of any and all source documents from which they reproduce Data.
- f. Force Majeure. Neither party shall be liable to the other party for damages caused by circumstances beyond its control, including, without limitation: internet hackers who gain access to the party's system or Data despite that party's commercially reasonable security measures; a major natural or other disaster; epidemic; the complete or partial destruction of the party's facilities; riot; civil insurrection; war or similar causes. This section shall survive the termination of this Agreement.

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Exhibit A

Transaction Sets

The following transaction sets are made part of this Trading Partner Agreement. All transactions are to be implemented in accordance with the HIPAA Companion Guides and other applicable regulations and standards. The parties may update this Exhibit A from time to time as additional transaction sets or operating rules are required.

Health Plan Enrollment and Payment Transaction Sets:

- 834 Membership Enrollments – 834 transaction is based on the 005010X220/Type 3 technical Report and its associated 005010X220A1 addenda
 - o 834 5010 transaction
 - o 999 Functional Acknowledgments
 - o TA1 Interchange Acknowledgments
- 820 Payment files - Transaction, is based on the 005010X306 Type 3 technical Report and its associated 005010X306 addenda
 - o 820 Transaction
 - o 999 Functional Acknowledgments
- 834 Benefit Enrollment and Maintenance Transaction – as defined in Section 8.1.1 - 8.1.3 of the “D-41 Carrier Enrollment ICD Companion Guide.docx”

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Exhibit B

Testing Requirements

All transactions must be formatted in accordance with State provided Implementation Guides, CMS Implementation Guides or the HIPAA Implementation Guides/Type 3 Technical Reports (TR3) available at <http://www.wpc-edi.com/hipaa>, as applicable. State shall provide companion guides for the transactions if necessary, which specify certain situational data elements necessary for State. HIPAA transactions to be transferred and shared between Contractor and State are identified in Exhibit A, Transaction Sets of this Agreement. State and Contractor will exchange any other necessary specifications as agreed upon in order to establish connectivity between the parties by phone or by document as necessary.

1. Contractor shall complete testing for each of the transactions it is required to implement and shall not transfer and share data with State in production mode until testing is satisfactorily completed, as determined by State.
 1. Successful testing means the ability to successfully receive HIPAA compliant transaction tests and to process electronic member health plan enrollment and payment information transmitted by State to Contractor and for Contractor to submit appropriate Acknowledgement reports.
 2. A script is considered passed without conditions if no errors occur and all expected outcomes are met.
 3. A script is considered conditionally passed if a component is down, unusable, or difficult to use causing some operational impact but where an alternative workaround acceptable to State in its reasonable judgment is available to avoid operational impacts on the user.
2. The functions that comprise "testing" shall include:
 1. State and Contractor interfaces operate as a bi-direction bridge covering the following areas:
 - a. Enrollment information – New enrollments, updates to existing enrollments and disenrollment.
 - b. Enrollment Reconciliation – Monthly full enrollment file to be used in reconciling State with Contractor's system.
 - c. Payments – Payment remittance information sent to the Contractor daily or as agreed upon by the parties.
3. The following technical rules shall be used for the transfer of electronic member or enrollee information between the parties:
 1. The recommended delimiters for the inbound X12 transaction sets shall be:
 - a. "*" Asterisk for data element separation;
 - b. "^" Caret for sub-element separation;
 - c. ":" Colon Component element separation; and
 - d. "~" Tilde for segment terminator.
 2. The delimiters for the outbound X12 transaction sets shall be:
 - a. "*" Asterisk for data element separation;
 - b. "^" Caret for sub-element separation;
 - c. ":" Colon Component element separation; and
 - d. "~" Tilde for segment terminator.
4. The access phone number to State for asynchronous communication are as set forth in Section 8, below.
5. Electronic communication between the State and the Contractor must be secured with an encryption method. The exact method of encrypting this communication must be agreed upon by the State of

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Vermont and be compliant to those laws which govern such electronic transactions.

6. The production sign-on procedures once connected to State shall be followed according to instructions issued by State. All such instructions shall be provided in advance to Contractor with time for review and comment prior to implementation.

K. Contact information for testing and troubleshooting is set forth below.

7. The transfer of electronic enrollee or member information between the parties shall occur as follows using a "push-push" method.

- a. 834 file will be transferred on a daily basis to the Contractor via a push method, State will send the file by calling the web services that will be hosted by the Contractor.
- b. The connection will be real-time. Confirmation of file receipt will be another call from Contractor end to State. Error response will also be a call from Contractor to State. All this happens asynchronously. One Contractor file will be sent daily.
- c. Communication between State and Contractor will use 2 way Secure Socket Layer (SSL).
- d. Files will be transferred daily at a scheduled time acceptable to State.
- e. Confirmation for the file transfer will be sent immediately. Transaction level errors of file submissions should be generated within 24 hours and be reported back to State via a separate error report file.
- f. If file transfer does not complete in 24 hours then an error report will be generated by the Contractor and returned to State.

8. Communications and Contact Information

Each party shall provide the other with such technical details, including, but not limited to, IP information, upon request.

State Contact Information for EDI Questions and Trouble Shooting:

Walter Gadomski, BCBSVT Dir of Channel Services and eBusiness
P.O. Box 186
Montpelier, VT 05601-0186
(802) 371-3773

Contractor Tech Support Contact Phone Number: (800) 334-3441, select option 2

Contractor Tech Support after hours: phone number: 802-371-3636 option 7

For Testing Assistance:

Patrick Clausen, patrick.g.claussen@dx.com
tele: 617-653-9493

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For Production Assistance related to Vermont Health Connect:

Contractor is to contact the (Primary) Maximus Contact number during hours of operation: 802.651.1577*

Contractor is to contact the after-hours number to be provided by State to Contractor support staff no later than October 15, 2013.

* However this does not preclude the fact that Technical Subject Matter Experts (SMEs) at both State and the Contractor may contact each other directly.**

** If the State SME is not available then the Contractor must call the primary Maximus Contact number: 802.651.1577.

Contractor Contact Information for EDI Questions and Trouble Shooting

Walter Gadomski, BCBSVT Dir of Channel Services and eBusiness
P.O. Box 186
Montpelier, VT 05601-0186
(802) 371-3773

Contractor Tech Support Contact Phone Number: (800) 334-3441, select option 2

Contractor Tech Support after hours: phone number: 802-371-3636 option 7

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Exhibit C

Contractor agrees to submit to the State all of the data that the Centers for Medicare and Medicaid Services requires the State to collect, set forth in the Payer Initiated Eligibility/Benefit (PIE) Transaction, also commonly referred to as the unsolicited 271 transaction. An example of what that transaction consists of, at the time of this amendment's signing, is provided below.

Example:

Page #	Loop ID	Reference	Name
C.4	NA (No Loop Name)	ISA	Interchange Control Header
C.4	NA (No Loop Name)	ISA01	Authorization Information Qualifier
C.4	NA (No Loop Name)	ISA02	Authorization Information
C.4	NA (No Loop Name)	ISA03	Security Information Qualifier
C.4	NA (No Loop Name)	ISA04	Security Information
C.4	NA (No Loop Name)	ISA05	Interchange ID Qualifier
C.4	NA (No Loop Name)	ISA06	Interchange Sender ID
C.5	NA (No Loop Name)	ISA07	Interchange ID Qualifier
C.5	NA (No Loop Name)	ISA08	Interchange Receiver ID
C.5	NA (No Loop Name)	ISA09	Interchange Date
C.5	NA (No Loop Name)	ISA10	Interchange Time
C.5	NA (No Loop Name)	ISA11	Repetition Separator
C.5	NA (No Loop Name)	ISA12	Interchange Control Version Number
C.5	NA (No Loop Name)	ISA13	Interchange Control Number
C.6	NA (No Loop Name)	ISA14	Acknowledgment Requested
C.6	NA (No Loop Name)	ISA15	Interchange Usage Indicator
C.6	NA (No Loop Name)	ISA16	Component Element Separator
C.7	NA (No Loop Name)	GS	Functional Group Header
C.7	NA (No Loop Name)	GS01	Functional Identifier Code
C.7	NA (No Loop Name)	GS02	Application Sender's Code
C.7	NA (No Loop Name)	GS03	Application Receiver's Code
C.8	NA (No Loop Name)	GS04	Date
C.8	NA (No Loop Name)	GS05	Time
C.8	NA (No Loop Name)	GS06	Group Control Number
C.8	NA (No Loop Name)	GS07	Responsible Agency Code
C.8	NA (No Loop Name)	GS08	Version / Release / Industry Identifier Code
209	NA (No Loop Name)	ST	Transaction Set Header
209	NA (No Loop Name)	ST01	Transaction Set Identifier Code
209	NA (No Loop Name)	ST02	Transaction Set Control Number
210	NA (No Loop Name)	ST03	Implementation Convention Reference
211	NA (No Loop Name)	BHT	Beginning of Hierarchical Transaction
211	NA (No Loop Name)	BHT01	Hierarchical Structure Code
211	NA (No Loop Name)	BHT02	Transaction Set Purpose Code

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212	NA (No Loop Name)	BHT03	Not Used
212	NA (No Loop Name)	BHT04	Date
212	NA (No Loop Name)	BHT05	Time
214	2000A	HL	Information Source Level
214	2000A	HL01	Hierarchical ID Number
214	2000A	HL02	Not Used
214	2000A	HL03	Hierarchical Level Code
214	2000A	HL04	Hierarchical Child Code
218	2100A	NM1	Information Source Name
218	2100A	NM101	Entity Identifier Code
219	2100A	NM102	Entity Type Qualifier
219	2100A	NM103	Name Last or Organization Name
		NM104 -	
219	2100A	NM107	Not Used
220	2100A	NM108	Identification Code Qualifier
220	2100A	NM109	Identification Code
			Information Source Contact
222	2100A	PER	Information
222	2100A	PER01	Contact Function Code
222	2100A	PER02	Name
222	2100A	PER03	Communication Number Qualifier
223	2100A	PER04	Communication Number
230	2000B	HL	Information Receiver Level
230	2000B	HL01	Hierarchical ID Number
230	2000B	HL02	Hierarchical Parent ID Number
231	2000B	HL03	Hierarchical Level Code
231	2000B	HL04	Hierarchical Child Code
232	2100B	NM1	Information Receiver Name
232	2100B	NM101	Entity Identifier Code
233	2100B	NM102	Entity Type Qualifier
233	2100B	NM103	Name Last or Organization Name
		NM104 -	
233	2100B	NM107	Not Used
234	2100B	NM108	Identification Code Qualifier
235	2100B	NM109	Identification Code
244	2000C	HL	Subscriber Level
244	2000C	HL01	Hierarchical ID Number
244	2000C	HL02	Hierarchical Parent ID Number
245	2000C	HL03	Hierarchical Level Code
245	2000C	HL04	Hierarchical Child Code
249	2100C	NM1	Subscriber Name
249	2100C	NM101	Entity Identifier Code
250	2100C	NM102	Entity Type Qualifier
250	2100C	NM103	Last Name or Organization Name
250	2100C	NM104	Name First
250	2100C	NM105	Name Middle

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250	2100C	NM106	Not Used
251	2100C	NM107	Name Suffix
251	2100C	NM108	Identification Code Qualifier
252	2100C	NM109	Identification Code
254	2100C	REF	Subscriber Additional Identification
254	2100C	REF01	Reference Identification Qualifier
256	2100C	REF02	Reference Identification
254	2100C	REF01	Reference Identification Qualifier
256	2100C	REF02	Reference Identification
257	2100C	N3	Subscriber Address
257	2100C	N301	Address Information
258	2100C	N302	Address Information
260	2100C	N4	Subscriber City, State, ZIP Code
260	2100C	N401	City Name
260	2100C	N402	State or Province Code
260	2100C	N403	Postal Code
269	2100C	DMG	Subscriber Demographic Information
269	2100C	DMG01	Date Time Period Format Qualifier
269	2100C	DMG02	Date Time Period
269	2100C	DMG03	Gender Code
291	2110C	EB	Subscriber Eligibility or Benefit Information
291	2110C	EB01	Eligibility or Benefit Information Code
291	2110C	EB02	Not Used
292	2110C	EB03	Service Type Code
317	2110C	DTP	Subscriber Eligibility/Benefit Date
317	2110C	DTP01	Date/Time Qualifier
318	2110C	DTP02	Date Time Period Format Qualifier
318	2110C	DTP03	Date Time Period
348	2000D	HL	Dependent Level
348	2000D	HL01	Hierarchical ID Number
349	2000D	HL02	Hierarchical Parent ID Number
349	2000D	HL03	Hierarchical Level Code
350	2000D	HL04	Hierarchical Child Code
354	2100D	NM1	Dependent Name
354	2100D	NM101	Entity Identifier Code
355	2100D	NM102	Entity Type Qualifier
355	2100D	NM103	Name Last or Organization Name
355	2100D	NM104	Name First
355	2100D	NM105	Name Middle
355	2100D	NM106	Not Used
356	2100D	NM107	Name Suffix
	2100D	REF	Dependent Additional Information
358	2100D	REF01	Reference Identification Qualifier
360	2100D	REF02	Reference Identification
358	2100D	REF01	Reference Identification Qualifier

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360	2100D	REF02	Reference Identification
361	2100D	N3	Dependent Address
361	2100D	N301	Address Information
362	2100D	N302	Address Information
364	2100D	N4	Dependent City, State, ZIP Code
364	2100D	N401	City Name
364	2100D	N402	State or Province Code
364	2100D	N403	Postal Code
373	2100D	DMG	Dependent Demographic Information
373	2100D	DMG01	Date Time Period Format Qualifier
373	2100D	DMG02	Date Time Period
373	2100D	DMG03	Gender Code
376	2100D	INS	Dependent Relationship
376	2100D	INS01	Yes/No Condition or Response Code
376	2100D	INS02	Individual Relationship Code
395	2110D	EB	Dependent Eligibility or Benefit Information
395	2110D	EB01	Eligibility or Benefit Information Code
397	2110D	EB02	Not Used
397	2110D	EB03	Service Type Code
420	2110D	DTP	Dependent Eligibility/Benefit Date
420	2110D	DTP01	Date/Time Qualifier
421	2110D	DTP02	Date Time Period Format Qualifier
421	2110D	DTP03	Date Time Period
450	NA (No Loop Name)	SE	Transaction Set Trailer
450	NA (No Loop Name)	SE01	Number of Included Segments
450	NA (No Loop Name)	SE02	Transaction Set Control Number
C.9	NA (No Loop Name)	GE	Functional Group Trailer
C.9	NA (No Loop Name)	GE01	Number of Transaction Sets Included
C.9	NA (No Loop Name)	GE02	Group Control Number
C.10	NA (No Loop Name)	IEA	Interchange Control Trailer
			Number of Included Functional
C.10	NA (No Loop Name)	IEA01	Groups
C.10	NA (No Loop Name)	IEA02	Interchange Control Number

For Coordination of Benefits Assistance

Notwithstanding Section 7 of the Agreement, for technical questions concerning the coordination of benefits and PIE transactions, the contact information for the respective parties is:

(1) State:

Debbie Austin
DVHA COB Director
312 Hurricane Lane
Williston, VT 05495
Debbie.Austin@Vermont.gov
Work: 802-879-5951

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(2) Contractor:

Walter Gadomski, BCBSVT Dir of Channel Services and eBusiness
P.O. Box 186
Montpelier, VT 05601-0186
gadomskiw@bcbsvt.com
(802) 371-3773

- 2. Attachment C (Standard State Provisions for Contracts and Grants) to the Contract is hereby deleted entirely and replaced with the following Attachment C on page 16 of this amendment:**
- 3. Attachment D (Modification of Customary Provisions of Attachment C or Attachment F) to the Contract is hereby deleted entirely and replaced with the following Attachment D on page 23 of this amendment:**
- 4. Attachment F (AHS Standard Provisions for Contracts and Grants) on page 30 of 41 of the Contract is hereby deleted entirely and replaced with the following Attachment F on page 24 of this amendment:**

This amendment consists of 29 pages. Except as modified by this amendment and any previous amendments, all provisions of this contract, (#25194) dated August 30, 2013 shall remain unchanged and in full force and effect.

BY THE STATE OF VERMONT:

BY THE CONTRACTOR:

CORY GUSTAFSON, COMMISSIONER
NOB 1 South, 280 State Drive
Waterbury, VT 05671
Email: Cory.Gustafson@Vermont.gov

DON GEORGE, PRESIDENT AND CEO
Blue Cross and Blue Shield of Vermont
445 Industrial Lane
Berlin, VT
Email: georged@bcbsvt.com

ATTACHMENT C: STANDARD STATE PROVISIONS
FOR CONTRACTS AND GRANTS
REVISED JULY 1, 2016

- 1. 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. "Agreement" shall mean the specific contract or grant to which this form is attached.
- 2. 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.
- 3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial:** This Agreement will be governed by the laws of the State of Vermont. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement. The Party agrees that it must first exhaust any applicable administrative remedies with respect to any cause of action that it may have against the State with regard to its performance under the Agreement.

Party agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.
- 4. Sovereign Immunity:** The State reserves all immunities, defenses, rights or actions arising out of the State's sovereign status or under the Eleventh Amendment to the United States Constitution. No waiver of the State's immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of the State's entry into this Agreement.
- 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:** The Party will act in an independent capacity and not as officers or employees of the State.
- 7. Defense and Indemnity:** The Party shall defend the State and its officers and employees against all third party claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party in connection with the performance of this Agreement. 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 State retains the right to participate at its own expense in the defense of any claim. The State shall have the right to approve all proposed settlements of such claims or suits. In the event the State withholds approval to settle any such claim, then the Party shall proceed with the defense of the claim but under those

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circumstances, the Party's indemnification obligations shall be limited to the amount of the proposed settlement initially rejected by the State.

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 in connection with the performance of this Agreement.

The Party shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party or an agent of the Party in connection with the performance of this Agreement.

The Party agrees that in no event shall the terms of this Agreement nor any document required by the Party in connection with its performance under this Agreement obligate the State to defend or indemnify the Party or otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or other costs of the Party except to the extent awarded by a court of competent jurisdiction.

8. 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. Vermont will accept an out-of-state employer's workers' compensation coverage while operating in Vermont provided that the insurance carrier is licensed to write insurance in Vermont and an amendatory endorsement is added to the policy adding Vermont for coverage purposes. Otherwise, the party shall secure a Vermont workers' compensation policy, if necessary to comply with Vermont law.

General Liability and Property Damage: With respect to all operations performed under this 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 Each Occurrence

\$2,000,000 General Aggregate

\$1,000,000 Products/Completed Operations Aggregate

\$1,000,000 Personal & Advertising Injury

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 \$500,000 combined single limit. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, limits of coverage shall not be less than \$1,000,000 combined single limit.

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Additional Insured. The General Liability and Property Damage coverages required for performance of this Agreement shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, then the required Automotive Liability coverage shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Notice of Cancellation or Change. There shall be no cancellation, change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written prior written notice to the State.

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

10. False Claims Act: The Party acknowledges that it is subject to the Vermont False Claims Act as set forth in 32 V.S.A. § 630 *et seq.* If the Party violates the Vermont False Claims Act it shall be liable to the State for civil penalties, treble damages and the costs of the investigation and prosecution of such violation, including attorney's fees, except as the same may be reduced by a court of competent jurisdiction. The Party's liability to the State under the False Claims Act shall not be limited notwithstanding any agreement of the State to otherwise limit Party's liability.

11. Whistleblower Protections: The Party shall not discriminate or retaliate against one of its employees or agents for disclosing information concerning a violation of law, fraud, waste, abuse of authority or acts threatening health or safety, including but not limited to allegations concerning the False Claims Act. Further, the Party shall not require such employees or agents to forego monetary awards as a result of such disclosures, nor should they be required to report misconduct to the Party or its agents prior to reporting to any governmental entity and/or the public.

12. Federal Requirements Pertaining to Grants and Subrecipient Agreements:

A. 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.

B. Internal Controls: In the case that this Agreement is a Grant 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

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Comptroller General of the United States and the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

- C. Mandatory Disclosures:** In the case that this Agreement is a Grant 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.

13. 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.

14. Fair Employment Practices and Americans with Disabilities Act: Party agrees to comply with the requirement of 21 V.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.

15. 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.

16. 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.

17. Taxation of Purchases: All State purchases must be invoiced tax free. An exemption certificate will be furnished upon request with respect to otherwise taxable items.

18. Child Support: (Only 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:

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- 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.

19. 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 shall be responsible and liable to the State for all acts or omissions of subcontractors and any other person performing work under this Agreement pursuant to an agreement with Party or any subcontractor.

In the case this Agreement is a contract with a total cost in excess of \$250,000, the Party shall provide to the State a list of all proposed subcontractors and subcontractors' subcontractors, together with the identity of those subcontractors' workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54).

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 14 ("Fair Employment Practices and Americans with Disabilities Act"); Section 16 ("Taxes Due the State"); Section 18 ("Child Support"); Section 20 ("No Gifts or Gratuities"); Section 22 ("Certification Regarding Debarment"); Section 23 ("Certification Regarding Use of State Funds"); Section 31 ("State Facilities"); and Section 32 ("Location of State Data").

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

21. Copies: Party shall use reasonable best efforts to ensure that all written reports prepared under this Agreement are printed using both sides of the paper.

22. 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>

23. 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.

24. Conflict of Interest: Party shall fully disclose, in writing, any conflicts of interest or potential

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conflicts of interest.

25. Confidentiality: Party acknowledges and agrees that this Agreement and any and all information obtained by the State from the Party in connection with this Agreement are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq.

26. Force Majeure: Neither the State nor the Party shall be liable to the other for any failure or delay of performance of any obligations under this Agreement to the extent such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control rendering performance illegal or impossible (excluding strikes or lock-outs) ("Force Majeure"). Where Force Majeure is asserted, the nonperforming party must prove that it made all reasonable efforts to remove, eliminate or minimize such cause of delay or damages, diligently pursued performance of its obligations under this Agreement, substantially fulfilled all non-excused obligations, and timely notified the other party of the likelihood or actual occurrence of an event described in this paragraph.

27. Marketing: Party shall not refer to the State in any publicity materials, information pamphlets, press releases, research reports, advertising, sales promotions, trade shows, or marketing materials or similar communications to third parties except with the prior written consent of the State.

28. Termination: In addition to any right of the State to terminate for convenience, the State may terminate this Agreement as follows:

- A. Non-Appropriation:** 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.
- B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party's notice or such longer time as the non-breaching party may specify in the notice.
- C. No Implied Waiver of Remedies:** A party's delay or failure to exercise any right, power or remedy under this Agreement shall not impair any such right, power or remedy, or be construed as a waiver of any such right, power or remedy. All waivers must be in writing.

29. Continuity of Performance: In the event of a dispute between the Party and the State, each party will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

30. Termination Assistance: Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

31. State Facilities: If the State makes space available to the Party in any State facility during the term of this Agreement for purposes of the Party's performance under this Agreement, the Party shall only use the space in accordance with all policies and procedures governing access to and use of State facilities which shall be made available upon request. State facilities will be made available to Party on an "AS IS, WHERE IS" basis, with no warranties whatsoever.

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32. Location of State Data: No State data received, obtained, or generated by the Party in connection with performance under this Agreement shall be processed, transmitted, stored, or transferred by any means outside continental United States, except with the express written permission of the State.

(Revised 7/1/16 - End of Standard Provisions)

ATTACHMENT D
OTHER TERMS AND CONDITIONS

1. **Professional Liability Insurance.** In addition to the insurance required in Attachment C, Section 8, of this Contract, before commencing work on this Contract and throughout the term of this Contract, the Contractor shall procure and maintain professional liability insurance for any and all services performed under this Contract, with minimum coverage of \$5,000,000 per occurrence, and \$15,000,000 policy aggregate.
2. **Umbrella Insurance.** In addition to the insurance requirements contained in Attachment C, Section 8, Contractor agrees to procure and maintain an 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.
3. **Subcontracting.** Notwithstanding anything to the contrary set forth in Attachment C, Section 19 (Sub-Agreements), the work to be performed by Contractor under this Agreement may be performed 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.]
4. **Modifications to Attachment F.** 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.

APPROVAL:



e-Signed by Jesse Moorman
on 2017-05-12 18:16:43 GMT

ASSISTANT ATTORNEY GENERAL

DATE: May 12, 2017

Attachment F

AGENCY OF HUMAN SERVICES' CUSTOMARY CONTRACT/GRANT PROVISIONS

1. **Definitions:** For purposes of this Attachment F, the term "Agreement" shall mean the form of the contract or grant, with all of its parts, into which this Attachment F is incorporated. The meaning of the term "Party" when used in this Attachment F shall mean any named party to this Agreement *other than* the State of Vermont, the Agency of Human Services (AHS) and any of the departments, boards, offices and business units named in this Agreement. As such, the term "Party" shall mean, when used in this Attachment F, the Contractor or Grantee with whom the State of Vermont is executing this Agreement. If Party, when permitted to do so under this Agreement, seeks by way of any subcontract, sub-grant or other form of provider agreement to employ any other person or entity to perform any of the obligations of Party under this Agreement, Party shall be obligated to ensure that all terms of this Attachment F are followed. As such, the term "Party" as used herein shall also be construed as applicable to, and describing the obligations of, any subcontractor, sub-recipient or sub-grantee of this Agreement. Any such use or construction of the term "Party" shall not, however, give any subcontractor, sub-recipient or sub-grantee any substantive right in this Agreement without an express written agreement to that effect by the State of Vermont.
2. **Agency of Human Services:** The Agency of Human Services is responsible for overseeing all contracts and grants entered by any of its departments, boards, offices and business units, however denominated. The Agency of Human Services, through the business office of the Office of the Secretary, and through its Field Services Directors, will share with any named AHS-associated party to this Agreement oversight, monitoring and enforcement responsibilities. Party agrees to cooperate with both the named AHS-associated party to this contract and with the Agency of Human Services itself with respect to the resolution of any issues relating to the performance and interpretation of this Agreement, payment matters and legal compliance.
3. **Medicaid Program Parties** (*applicable to any Party providing services and supports paid for under Vermont's Medicaid program and Vermont's Global Commitment to Health Waiver*):

Inspection and Retention of Records: In addition to any other requirement under this Agreement or at law, Party must fulfill all state and federal legal requirements, and will comply with all requests appropriate to enable the Agency of Human Services, the U.S. Department of Health and Human Services (along with its Inspector General and the Centers for Medicare and Medicaid Services), the Comptroller General, the Government Accounting Office, or any of their designees: (i) to evaluate through inspection or other means the quality, appropriateness, and timeliness of services performed under this Agreement; and (ii) to inspect and audit any records, financial data, contracts, computer or other electronic systems of Party relating to the performance of services under Vermont's Medicaid program and Vermont's Global Commitment to Health Waiver. Party will retain for ten years all documents required to be retained pursuant to 42 CFR 438.3(u).

Subcontracting for Medicaid Services: Notwithstanding any permitted subcontracting of services to be performed under this Agreement, Party shall remain responsible for ensuring that this Agreement is fully performed according to its terms, that subcontractor remains in compliance with the terms hereof, and that subcontractor complies with all state and federal laws and regulations relating to the Medicaid program in Vermont. Subcontracts, and any service provider agreements entered into by Party in connection with the performance of this Agreement, must clearly specify in writing the responsibilities of the subcontractor or other service provider

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and Party must retain the authority to revoke its subcontract or service provider agreement or to impose other sanctions if the performance of the subcontractor or service provider is inadequate or if its performance deviates from any requirement of this Agreement. Party shall make available on request all contracts, subcontracts and service provider agreements between the Party, subcontractors and other service providers to the Agency of Human Services and any of its departments as well as to the Center for Medicare and Medicaid Services.

Medicaid Notification of Termination Requirements: Party shall follow the Department of Vermont Health Access Managed-Care-Organization enrollee-notification requirements, to include the requirement that Party provide timely notice of any termination of its practice.

Encounter Data: Party shall provide encounter data to the Agency of Human Services and/or its departments and ensure further that the data and services provided can be linked to and supported by enrollee eligibility files maintained by the State.

Federal Medicaid System Security Requirements Compliance: Party shall 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) in order to support audit compliance with 45 CFR 95.621 subpart F, *ADP System Security Requirements and Review Process*.

4. **Workplace Violence Prevention and Crisis Response** (*applicable to any Party and any subcontractors and sub-grantees whose employees or other service providers deliver social or mental health services directly to individual recipients of such services*):

Party shall establish a written workplace violence prevention and crisis response policy meeting the requirements of Act 109 (2016), 33 VSA §8201(b), for the benefit of employees delivering direct social or mental health services. Party shall, in preparing its policy, consult with the guidelines promulgated by the U.S. Occupational Safety and Health Administration for *Preventing Workplace Violence for Healthcare and Social Services Workers*, as those guidelines may from time to time be amended.

Party, through its violence protection and crisis response committee, shall evaluate the efficacy of its policy, and update the policy as appropriate, at least annually. The policy and any written evaluations thereof shall be provided to employees delivering direct social or mental health services.

Party will ensure that any subcontractor and sub-grantee who hires employees (or contracts with service providers) who deliver social or mental health services directly to individual recipients of such services, complies with all requirements of this Section.

5. **Non-Discrimination:**

Party shall not discriminate, and will prohibit its employees, agents, subcontractors, sub-grantees and other service providers from 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, and on the basis of race, color or national origin under Title VI of the Civil Rights Act of 1964. Party shall 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 as provided by Title 9 V.S.A. Chapter 139.

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No person shall on the grounds of religion or on the grounds of sex (including, on the grounds that a woman is pregnant), 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 of Vermont and/or federal funds.

Party further shall 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, requiring that contractors and subcontractors receiving federal funds assure that persons with limited English proficiency can meaningfully access services. To the extent Party provides assistance to individuals with limited English proficiency through the use of oral or written translation or interpretive services, such individuals cannot be required to pay for such services.

6. Employees and Independent Contractors:

Party agrees that it shall comply with the laws of the State of Vermont with respect to the appropriate classification of its workers and service providers as "employees" and "independent contractors" for all purposes, to include for purposes related to unemployment compensation insurance and workers compensation coverage, and proper payment and reporting of wages. Party agrees to ensure that all of its subcontractors or sub-grantees also remain in legal compliance as to the appropriate classification of "workers" and "independent contractors" relating to unemployment compensation insurance and workers compensation coverage, and proper payment and reporting of wages. Party will on request provide to the Agency of Human Services information pertaining to the classification of its employees to include the basis for the classification. Failure to comply with these obligations may result in termination of this Agreement.

7. Data Protection and Privacy:

Protected Health Information: Party 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 Agreement. Party 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: Substance abuse treatment information shall be maintained in compliance with 42 C.F.R. Part 2 if the Party or subcontractor(s) are Part 2 covered programs, or if substance abuse treatment information is received from a Part 2 covered program by the Party or subcontractor(s).

Protection of Personal Information: Party agrees to comply with all applicable state and federal statutes to assure protection and security of personal information, or of any personally identifiable information (PII), including the Security Breach Notice Act, 9 V.S.A. § 2435, the Social Security Number Protection Act, 9 V.S.A. § 2440, the Document Safe Destruction Act, 9 V.S.A. § 2445 and 45 CFR 155.260. As used here, PII shall include any 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 any other personal or identifiable information that is linked or linkable to a specific person, such as date and place or birth, mother's maiden name, etc.

Other Confidential Consumer Information: Party agrees to comply with the requirements of AHS Rule No. 08-048 concerning access to and uses of personal information relating to any

beneficiary or recipient of goods, services or other forms of support. Party further agrees to comply with any applicable Vermont State Statute and other regulations respecting the right to individual privacy. Party shall ensure that all of its employees, subcontractors and other service providers performing services under this agreement understand and preserve the sensitive, confidential and non-public nature of information to which they may have access.

Data Breaches: Party shall report to AHS, through its Chief Information Officer (CIO), any impermissible use or disclosure that compromises the security, confidentiality or privacy of any form of protected personal information identified above within 24 hours of the discovery of the breach. Party shall in addition comply with any other data breach notification requirements required under federal or state law.

8. Abuse and Neglect of Children and Vulnerable Adults:

Abuse Registry. Party agrees not to employ any individual, to use any volunteer or other service provider, or to otherwise provide reimbursement to any individual who in the performance of services connected with this agreement provides care, custody, treatment, transportation, or supervision to children or to vulnerable adults if there has been a substantiation of abuse or neglect or exploitation involving that individual. Party is responsible for confirming as to each individual having such contact with children or vulnerable adults the non-existence of a substantiated allegation of abuse, neglect or exploitation by verifying that fact through (a) as to vulnerable adults, the Adult Abuse Registry maintained by the Department of Disabilities, Aging and Independent Living and (b) as to children, the Central Child Protection Registry (unless the Party holds a valid child care license or registration from the Division of Child Development, Department for Children and Families). See 33 V.S.A. §4919(a)(3) and 33 V.S.A. §6911(c)(3).

Reporting of Abuse, Neglect, or Exploitation. Consistent with provisions of 33 V.S.A. §4913(a) and §6903, Party and any of its agents or employees who, in the performance of services connected with this agreement, (a) is a caregiver or has any other contact with clients and (b) 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: as to children, make a report containing the information required by 33 V.S.A. §4914 to the Commissioner of the Department for Children and Families within 24 hours; or, as to a vulnerable adult, make a report containing the information required by 33 V.S.A. §6904 to the Division of Licensing and Protection at the Department of Disabilities, Aging, and Independent Living within 48 hours. Party 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.

9. Information Technology Systems:

Computing and Communication: Party 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 Party as part of this agreement. Options include, but are not limited to:

1. Party's provision of certified computing equipment, peripherals and mobile devices, on a separate Party'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

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follow the National Institutes of Standards and Technology (NIST) security and the Health Insurance Portability & Accountability Act (HIPAA) standards.

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 Party (or subcontractor or sub-grantee), shall have full and complete ownership of all software computer programs, documentation and/or source codes developed.

Party shall not sell or copyright a work product or item produced under this agreement without explicit permission from the State of Vermont.

If Party is operating a system or application on behalf of the State of Vermont, Party 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 Party's materials.

Party acknowledges and agrees that should this agreement be in support of the State's implementation of the Patient Protection and Affordable Care Act of 2010, Party is subject to the certain property rights provisions of the Code of Federal Regulations and a Grant from the Department of Health and Human Services, Centers for Medicare & Medicaid Services. Such agreement will be subject to, and incorporates here by reference, 45 CFR 74.36, 45 CFR 92.34 and 45 CFR 95.617 governing rights to intangible property.

Security and Data Transfers: Party shall comply with all applicable State and Agency of Human Services' policies and standards, especially those related to privacy and security. The State will advise the Party of any new policies, procedures, or protocols developed during the term of this agreement as they are issued and will work with the Party to implement any required.

Party will ensure the physical and data security associated with computer equipment, including desktops, notebooks, and other portable devices, used in connection with this Agreement. Party 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. Party 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, Party shall securely delete data (including archival backups) from Party's equipment that contains individually identifiable records, in accordance with standards adopted by the Agency of Human Services.

Party, in the event of a data breach, shall comply with the terms of Section 6 above.

10. Other Provisions:

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Environmental Tobacco Smoke. Public Law 103-227 (also known as the Pro-Children Act of 1994) and Vermont's Act 135 (2014) (An act relating to smoking in lodging establishments, hospitals, and child care facilities, and on State lands) restrict the use of tobacco products in certain settings. Party shall ensure that no person is permitted: (i) to use tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both indoor and outdoor, of any licensed child care center or afterschool program at any time; (ii) to use tobacco products or tobacco substitutes on the premises, both indoor and in any outdoor area designated for child care, health or day care services, kindergarten, pre-kindergarten, elementary, or secondary education or library services; and (iii) to use tobacco products or tobacco substitutes on the premises of a licensed or registered family child care home while children are present and in care. Party will refrain from promoting the use of tobacco products for all clients and from making tobacco products available to minors.

Failure to comply with the provisions of the federal 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. The federal Pro-Children Act of 1994, however, does not apply to 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.

2-1-1 Database: If Party provides health or human services within Vermont, or if Party provides such services near the Vermont border readily accessible to residents of Vermont, Party shall adhere to the "Inclusion/Exclusion" policy of Vermont's United Way/Vermont 211 (Vermont 211), and will provide to Vermont 211 relevant descriptive information regarding its agency, programs and/or contact information as well as accurate and up to date information to its database as requested. The "Inclusion/Exclusion" policy can be found at www.vermont211.org.

Voter Registration: When designated by the Secretary of State, Party 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.

Drug Free Workplace Act: Party will assure a drug-free workplace in accordance with 45 CFR Part 76.

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.

AHS ATT. F 12.31.16