

1. **Parties.** This is a contract for personal services between the State of Vermont, Department of Vermont Health Access (hereafter called "DVHA"), and Midwest Drug Consulting LLC with a principal place of business in Columbus, Ohio (hereafter called "Contractor"). The Contractor's form of business organization is a Limited Liability Company. The Contractor's address is 3149 S. Dorchester Rd, Columbus, Ohio 43221-2636. It is the Contractor's responsibility to contact the Vermont Department of Taxes to determine if, by law, the Contractor is required to have a Vermont Department of Taxes Business Account Number.
2. **Subject Matter.** The subject matter of this contract is personal services generally on the subject of services related to the Sovereign States Drug Consortium (SSDC) in support of the SSDC's programs for Medicaid supplemental drug rebates and other Medicaid pharmacy benefit rebates. Detailed services to be provided by the Contractor are described in Attachment A.
3. **Maximum Amount.** In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$60,000.
4. **Contract Term.** The period of Contractor's performance shall begin on April 26, 2017 and end on March 31, 2018. This contract may be extended for up to two (2) one-year extensions at the discretion of DVHA acting on behalf of the SSDC.
5. **Prior Approvals.** If approval by the Attorney General's Office or the Secretary of Administration is required, (under current law, bulletins, and interpretations), neither this contract nor any amendment to it is binding until it has been approved by either or both such persons.  
Approval by the Attorney General's Office is required.  
Approval by the Secretary of Administration is not required.
6. **Amendment.** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of DVHA and the Contractor.
7. **Contacts and Notices:** The contacts for this award are as follows:

	<u>State Fiscal Manager</u>	<u>State Program Manager</u>	<u>For the Contractor</u>
Name:	Meaghan Kelley	Nancy Hogue	Patti Nussle
Phone:	802-241-0393	802-241-0143	614-209-5600
E-mail:	Meaghan.Kelley@vermont.gov	Nancy.Hogue@vermont.gov	nussle@columbus.rr.com

**8. Notices to the Parties Under This Agreement**

To the extent notices are made under this agreement, such notices shall only be effective if committed to writing and sent to the following persons as representatives of the parties:

**CONTRACTOR:**

Patti Nussle  
Midwest Drug Consulting  
3149 S. Dorchester Rd  
Columbus, Ohio 43221  
[nussle@columbus.rr.com](mailto:nussle@columbus.rr.com)

**STATE:**

DVHA Legal Unit  
Department of Vermont Health Access  
NOB 1 South, 280 State Drive  
Waterbury, VT 05671-1010  
[AHS.DVHALegal@vermont.gov](mailto:AHS.DVHALegal@vermont.gov)

Written 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.

- 9. SUBCONTRACTOR REQUIREMENTS:** Per Attachment C, Section 19, if the Contractor chooses to subcontract work under this agreement, the Contractor must first fill out and submit the 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. A fillable PDF version of this Subcontractor Compliance Form is available upon request from the DVHA Business Office. Under no circumstance shall the Contractor enter into a sub-agreement without prior authorization from the State. The Contractor shall submit the Subcontractor Compliance Form to: Meaghan Kelley: [Meaghan.Kelley@vermont.gov](mailto:Meaghan.Kelley@vermont.gov)

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

The Contractor shall include the following provisions of Attachment C in all subcontracts for work performed solely for the State of Vermont under this agreement 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”).

- 10. Cancellation.** This contract may be cancelled by either party by giving written notice at least 30 days in advance. Notwithstanding this provision, if a governmental agency with due authority determines that a program or facility operated by the Contractor, wherein services authorized under this contract are provided, is not in compliance with State and Federal law or is operating with deficiencies DVHA may terminate this contract immediately and notify the Contractor accordingly. Also, in the event that federal funds

supporting this contract become unavailable or are reduced, DVHA may cancel this contract with no obligation to pay the Contractor from State revenues.

**11. Attachments.** This contract consists of 38 pages including the following attachments, which are incorporated herein:

- Attachment A - Specifications of Work to be Performed
- Appendix AI: Performance Standards
- Attachment B - Payment Provisions
- Appendix BI: Penalties/Liquidated Damages for Failures in Performance
- Attachment C - Vermont Customary Provisions for Contracts and Grants
- Attachment F - Customary Contract Provisions of the Vermont Agency of Human Services

The order of precedence of documents shall be as follows:

1. This document
2. Attachment C
3. Attachment A
4. Attachment B
5. Attachment F

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

<b>BY THE STATE OF VERMONT:</b>	<b>BY THE CONTRACTOR:</b>
<hr/> <p>CORY GUSTAFSON, COMMISSIONER    DATE AHS/DVHA NOB 1 South, 280 State Drive Waterbury, VT 05671-1010 Phone: 802-241-0246 Email: <a href="mailto:Cory.Gustafson@vermont.gov">Cory.Gustafson@vermont.gov</a></p>	<hr/> <p>PATTI NUSSLE    Date    DATE Midwest Drug Consulting, LLC 3149 S. Dorchester Rd Columbus, Ohio 43221-2636 Phone: 614-209-5600 Email: <a href="mailto:nussle@columbus.rr.com">nussle@columbus.rr.com</a></p>

**ATTACHMENT A  
SPECIFICATIONS OF WORK TO BE PERFORMED**

**I. SOVEREIGN STATES DRUG CONSORTIUM (SSDC) BACKGROUND**

**A. History**

The Omnibus Budget Reconciliation Act of 1990 (OBRA'90) created the national Medicaid Drug Rebate Program. Section 1927 of the Social Security Act (*42 U.S.C. 1396r-8*) provides the regulatory authority for the program. The terms and conditions of the setting of the program's rebates and their payments are found in this section of law.

The national Medicaid Drug Rebate Program is administered by the Centers for Medicare & Medicaid Services (CMS). A drug manufacturer is required to enter into a national rebate agreement with the Secretary of the Department of Health and Human Services (HHS) to allow states to receive Federal funding for its drugs dispensed to Medicaid patients. Rebates are paid to states and the federal government based on units utilized in each state.

Under conditions found in Section 1927 of the Social Security Act (*42 U.S.C. 1396r-8*), a number of states have obtained approval from CMS to enter into Medicaid rebate agreements supplemental to the Medicaid Drug Rebate Program rebates.

In 2004, CMS approved the first multi-state Medicaid supplemental rebate pooling arrangement. With a multi-state pool, states combine their covered lives and drug utilization to demonstrate a large market in securing rebates from manufacturers.

In September 2004, CMS released a guidance letter on the formation of multi-state pooling arrangements. This letter is available at [www.cms.hhs.gov/smdl/downloads/smd090904.pdf](http://www.cms.hhs.gov/smdl/downloads/smd090904.pdf).

In the fall of 2005, the states of Iowa, Maine, and Vermont formed a state administered multi-state pooling arrangement, the Sovereign States Drug Consortium (SSDC), and were its membership for the first rebate calendar year of 2006. By July 2016, the membership had grown to twelve states with the additions of Delaware, Mississippi, North Dakota, Oklahoma, Ohio, Oregon, Utah, West Virginia, and Wyoming.

As a Medicaid supplemental drug rebate initiative, the SSDC requires approval from the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) through individual Medicaid State Plan Amendments. Iowa, Maine, and Vermont received the first approval letters in July 2006. Utah, Wyoming, West Virginia, Oregon, Mississippi, North Dakota, Delaware, and Ohio have all received approval letters since joining the pool and Oklahoma is pending approval. Any additional states will request approval by the first quarter they plan to collect supplemental drug rebates.

In addition to its drug rebate initiative, the SSDC has explored ways to expand the scope of other pharmacy benefit rebates it obtains. As of 2016, states may opt to collect rebates on

diabetic supply utilization in their individual state Medicaid programs. At some future date, the SSDC may consider other rebate activities. What they will be and the extent to which the SSDC's operations will apply will be established at that time.

All SSDC Member States participate in the SSDC by memorandum of understanding. It may be assumed that additional states will be able to participate in this arrangement in the future.

**B. Operations: Supplemental Drug Rebates and Other Pharmacy Benefit Rebates**

The SSDC Member States believe that the components of their rebate programs can be broadly defined as:

- Member States' utilization data compilation: Compilation of Member States' produced drug utilization data for Member State information and use, for presentation to manufacturers as part of the annual rebate bid procurement, and for use in bid presentation and evaluation.
- Rebate bid solicitation for annual review and as needed: Creation of a bid solicitation process including the provision of the vehicles(s) for manufacturers to submit bids. Communication with manufacturers throughout the process including but not limited to the web posting of general requests for proposals, manufacturer specific requests for proposals, and responses to manufacturers' questions.
- Bid presentation at the SSDC annual meeting and as needed: Provision for state review of a compilation of offered rebate bids with pertinent related conditions, factors, and/or information.
- Bid review: Review of offered rebate bids by states collectively and individually to determine what best meets the needs of select and/or individual states.
- Rebate bid negotiation annually and as needed: Negotiation that may occur at the request of a state or states after any bid review.
- Bid selection: State specific selection(s) within drug classes.
- Bid selection notification: Notifications to manufacturers.
- General collective rebate solicitation administrative functions: Including but not limited to the creation and maintenance of a web page to provide manufacturers and others with pertinent information about the SSDC; general communications with participating states, manufacturers, and others; notification to manufacturers of changes in Member State participation during agreement year(s); data development, analysis, and reporting; data compilation and distribution; manufacturer participation tracking; drug representation tracking; and meeting organization, coordination, support, and management.
- Contract finalization: Execution of contracts using each state's rebate contract format.
- Preferred drug list (PDL) development: Development of state specific PDLs.
- Clinical management development: Development of state specific clinical criteria in support of each state specific PDL.
- Contract management: Management of the terms and conditions of each state's executed rebate contracts.

- PDL management: Oversight of each state's PDL.
- Clinical management: Clinical support of the state specific criteria including but not limited to prior authorization.
- Rebate billing: State specific rebate billing.
- Rebate dispute resolution: State specific rebate dispute management.
- Rebate collections and reporting: State specific rebate collections and reporting.

The SSDC Member States share services for six of these components. These core collective services are:

1. Member States' utilization data compilation.
2. Rebate bid solicitation for annual review and as needed.
3. Bid presentation at the SSDC annual meeting and as needed.
4. Rebate bid negotiation annually and as needed.
5. Bid selection notification.
6. General collective administrative functions.

The services necessary to provide these core collective services are provided by the SSDC's rebate services contractor.

For all other rebate program components, other than the listed six, the individual Member States and their internal and contractual resources work independently and/or coordinate with other Member States and their resources.

### **C. Contractor Services**

Each SSDC Member State administers its own pharmacy benefit management (PBM) program and activities with its own staff and/or contracted resources. Each state may make changes in its PBM administrative operations and contracts with no impact on its participation in the SSDC.

Collectively, the Member States of the SSDC contract with a single rebate services vendor for the six core collective services listed above that are related to Medicaid supplemental drug rebates and other Medicaid pharmacy benefit rebates. This contract is competitively procured and the states select the vendor. To date, the State of Vermont (DVHA) has executed and hosted the resulting contract on behalf of the SSDC. Currently, the contract is with Goold Health Systems (GHS) now Change Healthcare Pharmacy Solutions.

Collectively, the Member States of the SSDC contract for a variety of support services for the operations of the SSDC. It is for these services that the State of Vermont is hosting this contract on behalf of the SSDC.

## II. CONTRACT INFORMATION

### A. Use of the Term “SSDC”

The term “SSDC” is used throughout this contract. This term refers to the Sovereign States Drug Consortium on whose behalf this contract operates.

### B. Designation of the SSDC’s Agent

The SSDC Member States have designated the State of Vermont, Agency of Human Services (AHS), Department of Vermont Health Access (DVHA) as its agent in this contract.

### C. Use of the Term “DVHA”

The term “DVHA” is used throughout this contract. DVHA, the Department of Vermont Health Access, is a department of the State of Vermont. While this contract is on behalf of the SSDC, DVHA is hosting the contract. This contract is with the State of Vermont. While the term “State” is commonly used in State of Vermont contracts, this term will not be used here because of the multi-state membership of the SSDC. The term “DVHA” is used here to identify the entity in the State of Vermont that manages this contract.

### D. SSDC Responsibilities in the Contract

All Member States of the Sovereign States Drug Consortium (SSDC) share in all functional and operational responsibilities related to the Contract.

The SSDC shall oversee the work under this agreement and shall have responsibility for:

1. Notifying the Contractor in a timely manner of all pertinent changes in SSDC policy, procedures or operational systems that affect or depend upon Contractor operations or activities.
2. Providing the Contractor, in a timely manner, with any information regarding SSDC Member State or federal regulations, policies or statutes, or changes thereof, which are relevant to the Contractor's performance.
3. Providing the Contractor with information and otherwise assisting the Contractor in responding to complex inquiries regarding SSDC Member State policies.
4. Providing services related to electronic data exchanges and their frequency schedules, transmission methods, and file formats and specifications as defined by the SSDC Member States and the Contractor.
5. Providing technical assistance in resolving problems associated with data exchanges.

6. Providing the Contractor with any other information that the SSDC Member States deem relevant in order to fulfill the duties required by this contract.
7. Monitoring Contractor compliance with contract terms
8. Monitoring Contractor's progress and performance
9. Monitoring the Contractor's performance standards listed in Section 5
10. Resolving issues related to program implementation and operation.

**E. DVHA Responsibilities in the Contract**

Upon execution of this Contract, the State of Vermont, Department of Vermont Health Access, as the agent of the SSDC, shall direct the Support Services Contractor to administer this Contract on a day-to-day basis during the term of the Contract. However, administration of this Contract implies no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions, and specifications of such Contract. That authority is retained by the SSDC and DVHA.

DVHA shall assume the following responsibilities with regard to this contract:

1. The responsibility to represent the SSDC in all matters pertaining to administration of this contract
2. Reimburse the Contractor monthly in accordance with procedures defined in the contract, upon receipt of a properly completed invoice.

**III. SSDC SUPPORT SERVICES CONTRACT RESPONSIBILITIES**

The purpose of this contract is to ensure the provision of support services for the SSDC, its Member States, and their pharmacy benefit management programs.

The primary support services required are:

1. Support for the maintenance/development, review, and execution of the SSDC's Memorandum of Understanding (MOU) including annual renewals.
2. Oversight of the SSDC core collective rebate services contract.
3. Oversight of any other contracts that the SSDC Member States may collectively request in the term of the support services contract.
4. Incorporation and coordination of Member State requested services in any executed SSDC contract(s).
5. Assistance to states in the development of SSDC specific individual Medicaid State Plan Amendments (SPAs).
6. Assistance to the State of Vermont in the management of Member State billings/payments for rebate collective and/or other contract services.



7. Management activities in support of the SSDC.
8. Administrative activities in support of the SSDC.

As of April 26, 2017, the Contractor shall be responsible for these eight required primary support services under the terms and conditions of this contract. Future services may be allowed during the full term of the contract subject to mutual agreement by all parties.

Some services may be provided solely to individual Member States. Other support services shall be used by all Member States. Generally, the selected contractor shall support all Member States equally while ensuring interaction and collaboration with Member States and their resources. The services listed below, and any future services under this Contract, are intended to be and will be solely Administrative and Support Services, and in no way, shape or form is Contractor to be construed as an attorney for DVHA, the SSDC, or the Member States. Under no circumstances will DVHA, the SSDC or any Member State accept any legal services from Contractor, and in no circumstances will any attorney-client relationship be deemed formed between Contractor and any entity receiving the Contractor's services under this Contract. Details regarding the identified eight required primary support services are as follows:

**A. Support for the maintenance/development, review, and execution of the SSDC's Memorandum of Understanding (MOU) including annual renewals**

The SSDC's MOU is the complete accounting of the agreement entered into by its Member States committing to the terms and conditions of the SSDC. The MOU makes it possible for the SSDC to function and consists of:

- A description of the SSDC;
- Its history;
- Its basis for operations;
- Its purpose;
- Its duration;
- Its responsibilities;
- Its services,
- Its individual members' responsibilities; and
- Its general terms and conditions.

The Contractor is responsible for monitoring SSDC operations in relation to the MOU to identify areas where problems may occur and/or where options for additions, changes, or deletions should be presented to the Member States for consideration.

**B. Oversight of the SSDC core collective rebate services contract**

Collectively, the Member States of the SSDC contract with a single vendor for the six core collective services related to Medicaid supplemental drug rebates and other Medicaid pharmacy benefit rebates. This is commonly referred to as the rebate services contract. The

rebate services contract is competitively procured and the SSDC Member States select the vendor. Currently, the State of Vermont has executed and hosts the contract on behalf of the SSDC. The contract is with Change Healthcare Pharmacy Solutions.

At the direction of the Member States of the SSDC, the Support Services Contractor is responsible for the day-to-day management of this rebate services contract. This includes all aspects of the contract. And this requires that the Member States are kept fully informed of any issues related to the terms and conditions of the contract and any performance matters.

The current rebate services contract was effective April 1, 2015. Its term is two (2) years, with the option for up to two (2) one year extensions. Thus, the rebate services contract may be re-procured during the full possible term of this support services contract. Any re-procurement of this rebate services contract will be scheduled, planned, and executed at the direction of the Member States.

The Support Services Contractor shall be responsible for developing any necessary Request for Proposal (RFP) for any rebate services contract replacement. The SSDC does have a template for such an RFP but it shall be the responsibility of the Support Services Contractor to develop the final version at the direction of the SSDC Member States. The Support Services Contractor shall also be expected to manage any necessary re-procurement activities that may need to take place working with the Member States and the State of Vermont or any other state that may be hosting any future contract or serving in some other contracting capacity for the SSDC. Re-procurement activities include but may not be limited to managing any bidder conferences, preparing responses to bidder questions, developing scoring instruments, scoring proposals for compliance with mandatory requirements, compiling Member State scores, and working with the state hosting the contract on any related public information inquiries or challenges.

The Support Services Contractor shall be expected to work with the SSDC Member States on the contract development needs that result from any procurement. The Contractor shall be expected to work with any state hosting the contract and any other state involved in that contract to assure that all state requirements are met in the resulting contract.

The Contractor shall continue to be expected to manage the contract that results from any re-procurement at the direction of the SSDC Member States.

**C. Oversight of any other contracts that the SSDC Member States may collectively request in the term of the support services contract**

The SSDC has never contracted for anything other than rebate and support services. However, as the SSDC grows, there may be times and reasons for considering other contracts.

At the direction of the Member States of the SSDC, the Support Services Contractor would be responsible for the day-to-day management of any other SSDC contracts. This would

include all aspects of a contract. And this would require that the Member States be kept fully informed of any issues related to the terms and conditions of the contract and any performance matters.

The Support Services Contractor shall be responsible for any new contract that may be procured during the term of the support services contract. Any new contract procurement will be scheduled, planned, and executed at the direction of the Member States. The Contractor shall be responsible for developing any necessary Request for Proposal (RFP) at the direction of the SSDC Member States. The Contractor shall also be expected to manage any necessary procurement activities that may need to take place working with the Member States and the State of Vermont or any other state that may be hosting any future contract or serving in some other contracting capacity for the SSDC. Procurement activities include but may not be limited to managing any bidder conferences, preparing responses to bidder questions, developing scoring instruments, scoring proposals for compliance with mandatory requirements, compiling Member State scores, and working with the state hosting the contract on any related public information inquiries or challenges.

The Support Services Contractor shall be expected to work with the SSDC Member States on the contract development needs that result from any procurement. The Contractor shall be expected to work with any state hosting a contract and any other state involved in that contract to assure that all state requirements are met in the resulting contract.

The Support Services Contractor shall be expected to manage the contract that results from any new contract procurement at the direction of the SSDC Member States.

**D. Incorporation and coordination of Member State requested services in any executed SSDC contract(s)**

The SSDC consists of Member States operating the federal Medicaid program within their boundaries. There are many differences in the Member States beyond geographical locations. The differences can include but not be limited to political and social policies, economic environments, census numbers, budgetary constraints, populations served, clinical service availability, clinical approaches, etc.

The operations of the SSDC are premised on serving all of its Member States equally. However, to do that with as many differences as there are between the states, it is necessary to note the differences and to determine how to meet every state's needs equally without advantaging or disadvantaging any other state. To do that, the Support Services Contractor shall be responsible for noting the differences and assessing on an ongoing basis if every state's SSDC required needs are being met or can be met under the terms and conditions of the SSDC's MOU and/or contracts and, when they are not being met for a state, working with that state to determine what must be presented to all the Member States to determine if anything can be done.

**E. Assistance to states in the development of SSDC specific individual Medicaid State Plan Amendments (SPAs) including any CMS negotiations**

Membership in the SSDC requires that states obtain approval from CMS for Medicaid State Plan Amendments (SPAs) that would permit them to collect drug rebates supplemental to federally required rebates through the SSDC. Once states are members of the SSDC, they may also need SPAs for specific aspects of the SSDC's operations or their operations under the SSDC.

The Support Services Contractor shall be responsible for assisting individual Member States in securing SSDC related SPAs to the extent possible as defined by the membership. This assistance may include working with individual Member States in the preparation and submittal of SPAs, in the development of responses to any questions raised, and/or in the negotiations with CMS to obtain approval.

**F. Assistance to the State of Vermont in the management of Member State billings/payments for rebate collective and/or other contract services**

The costs of the SSDC are shared by its Member States on an annual basis.

Operationally, these costs are what produce drug rebates for any Rebate Calendar Year. A Rebate Calendar Year is equal to a calendar year, January 1 through December 31. And the Rebate Calendar Year is the period against which negotiated rebates are collected based on the drug utilization of the covered lives of the Member States during the period.

The current costs of the SSDC are the cost of its contracts: the rebate services contract with Change Healthcare Pharmacy Solutions, that supports the six core collective services related to Medicaid supplemental drug rebates and other Medicaid pharmacy benefit rebates and this support services contract. Since the six core collective services must be delivered to ensure readiness for the Rebate Calendar Year, for SSDC funding purposes, the Contract Year of the rebate services contract that begins April 1 is the "effective contract year" for SSDC cost projection and accounting purposes and the projected cost of the support services contract is applied to that same contract period as the rebate services contract.

The Contractor shall project costs for the support services contract for the same period as the rebate services contract. Historically, this is done on a monthly basis. For example, for rebate calendar year 2018, the projected cost of SSDC services is the cost of the Rebate Services and this contract from April 1, 2017 through March 31, 2018.

In apportioning costs to the Member States, the SSDC applies the "effective contract year" price for all contract services for a year beginning April 1 in relation to the months Member States collect rebates in the related Rebate Calendar Year. When all Member States collect rebates for all the months of the Rebate Calendar Year, then the monthly "effective contract year" price is shared equally by all Member States for all months. When there is a change in the number of Member States that can collect rebates for a Rebate Calendar Year, the

monthly “effective contract year” price is shared by all Member States on a month-by-month basis depending on the number of months that members can collect rebates in the Rebate Calendar Year.

The Support Services Contractor shall be responsible for using the information here to establish the amount of each Member State’s annual share of SSDC costs. The Contractor shall be responsible preparing the annual Member State billings for DVHA’s approval and signature. Historically, the bills are for the current rebate calendar year and are produced for delivery at the SSDC Annual Meeting for the following rebate calendar year. For example, the bills for Rebate Calendar Year 2016 were delivered at the June 2016 Annual Meeting for Rebate Calendar Year 2017.

Once Member State bills have been delivered, the Support Services Contractor shall be responsible for tracking Member State payments and any outstanding Member State bills to assure prompt payment to DVHA.

The Support Services Contractor shall be responsible for periodically reconciling actual SSDC costs against estimates to determine true costs for SSDC accounting purposes. This will occur as Member State annual bills are prepared and more often as necessary.

**G. Management activities in support of the SSDC**

The Support Services Contractor shall be expected to support the SSDC in a variety of management activities including but not limited to:

1. State recruitment as directed by Member States, when contacted by states, as identified by SSDC contractor(s), as identified by the contractors of the Member States, or as otherwise identified.
2. Public information and relations for anyone interested in the SSDC, including those representing state legislative interests, non-Medicaid state agency representatives interested in the approach, and manufacturers. General public information documents available at the onset of the contract will be maintained; new materials will be developed as identified as necessary and as reviewed and approved by Member States. All materials must be available for general distribution and for posting on the SSDC web page managed by GHS.
3. Federal policy research, analysis, and reporting.
4. State operations research, analysis, and reporting.
5. Data analysis and reporting.
6. Other related management needs as identified as necessary and reviewed and approved by Member States.

**H. Administrative activities in support of the SSDC**

The Support Services Contractor shall be expected to support the SSDC in a variety of administrative activities including but not limited to:

1. Meeting management and coordination including identifying and/or responding to the need for meetings; developing agendas; scheduling times and places; distributing materials; etc.
2. Coordination of telephone and mailing services.
3. Other related administrative needs as identified as necessary and reviewed and approved by Member States.

#### **IV. SSDC SUPPORT SERVICES CONTRACTOR OBLIGATIONS**

##### **A. Contractor Organization and Locations**

Upon the execution of this contract, the Contractor must provide DVHA with a signed W-9.

During the full possible term of this contract, the Support Services Contractor shall notify DVHA and the SSDC of any changes to the following information:

- Mailing address.
- Street address (for FedEx or other mail delivery service).
- Landline telephone number, cell phone number, fax number, and e-mail address.
- Any sanctions or convictions of a criminal offense related to Medicaid/Medicare or any other federal or state program.

##### **B. Staffing**

The Support Services Contractor shall be responsible for providing all resources necessary to deliver the services required by this contract in a timely fashion or according to the SSDC's rebate calendar.

##### **C. Post Implementation**

The Support Services Contractor shall be required to assume responsibility for all contractual operations and activities whether or not that Contractor personally performs them.

The SSDC and DVHA shall consider the Support Services Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.

Changes in operations that impact the contract are subject to the review and approval of the SSDC Member States.

If any part of the work is proposed to be assigned to hired staff or subcontracted during the term of the contract, the SSDC reserves the right to approve the staff/subcontractors. It is not the intention of the SSDC to unreasonably withhold such an approval. However, the Member States reserve the right to ensure that the SSDC's needs will be met.

The SSDC reserves the right to require the Support Services Contractor to replace staff/subcontractors found to be unacceptable.

The Support Services Contractor is totally responsible for adherence by any staff/subcontractor to all provisions of the contract. Any provision that applies to the Support Services Contractor will apply equally to any staff/subcontractors.

This agreement between the Support Services Contractor and the State of Vermont, Department of Vermont Health Access will not be assignable to another party without prior written permission from the Sovereign States Drug Consortium and the State of Vermont, Department of Vermont Health Access. The Contractor shall provide advance notice to the SSDC and DVHA on any such intended change.

**D. Affiliations**

The Support Services Contractor shall report any affiliations that may be developed during the term of the contract that may appear to represent a conflict of interest or have the potential for affecting the performance of duties under this contract.

Such affiliations include but are not be limited to all affiliations or ownership relationships with:

1. Potential suppliers of pharmaceuticals, retail pharmacy services, or prescription benefit management services to any state or territory in the United States of America.
2. Entities engaged in drug rebate activities, including but not limited to states, hospitals or other medical providers, pharmacy benefit management companies, and insurers.

**E. Information Belonging to the SSDC and/or its Member States**

The Support Services Contractor shall understand and agree that any and all information belonging to the SSDC or its Member States shall be considered solely the property of the SSDC or its Member States and shall not be disclosed at any time to anyone outside the SSDC without the express permission of the affected Member State(s).

**F. Ownership of Data, Deliverables, and Reports**

The Support Services Contractor shall agree that any and all data provided to it by the SSDC or any of its Member States or their agents and/or collected, created, summarized, and/or aggregated for the SSDC or any of its Member States; deliverables submitted to the SSDC or any of its Member States; and reports created under this contract, are the property of the SSDC and its Member States, intended solely for the purpose of supporting the SSDC in any manner deemed appropriate by the SSDC. None of these data or materials may be used by the Contractor at any time or in any manner without the express written approval of the SSDC.

**G. Disaster Recovery**

In the event of a natural disaster and unnatural disasters, including but not limited to hacking and acts of terrorism, the Support Services Contractor must have a procedure for assuring that all pieces of work related to this Contract are stored in multiple manners so that they may be accessed in the event of such a disaster.

The Contractor shall prepare a draft disaster recovery and business continuity plan as part of the implementation of this contract. The draft will be reviewed and revised and finalized as part of the implementation.

The Contractor shall provide an updated disaster recovery and business continuity plan when changes occur over the term of the Contract.

The Contractor shall acknowledge that changes in disaster recovery and business continuity plan that occur over the term of the Contract are subject to the review and approval of the SSDC Member States.

#### **H. End of Contract / Transition Plan**

It should be expected that in the final year of the contract established by this RFP, the SSDC shall release a RFP to secure a new contract for services in support of its programs for Medicaid supplemental drug rebate and other Medicaid pharmacy benefit rebates. In the event that a new contractor is selected, or at the termination or expiration of this agreement, the Support Services Contractor under this contract shall be prepared to provide **all** notebooks, plans, working papers, documents, materials, records, data, documentation, other work, and other items developed and produced under this contract, that are related to specific deliverables under this contract, so that they may be transitioned to the new contractor. Documents shall be transferred electronically to the extent they were created electronically. If digitally locked, the encryption code shall also be supplied to the new contractor, or DVHA in the absence of a new contractor.

To the extent possible, the details of the known terms and conditions of this transition will be established at the time of the finalization of this contract. These terms and conditions may be amended over the period of the contract.

To the extent possible, the Contractor shall acknowledge that it shall provide the following as soon as a new contractor is announced:

- A copy of the schedule of events in a normal business year.
- A copy of the last approved Memorandum of Understanding (MOU) in MS Word form.
- A copy of the last RFP used to procure the last SSDC rebate services contract in MS Word form.
- A copy of the last SSDC rebate services contract in MS Word form.
- Standard language for the creation of a SSDC specific individual Medicaid State Plan Amendments in MS Word form.
- Standard language for the response to known CMS questions regarding SSDC specific individual Medicaid State Plan Amendments in MS Word form.
- A copy of the last update of the spreadsheet that documents the history of invoices to states for SSDC services in MS Excel form.
- A copy of the last set of invoices from DVHA to states for SSDC services in MS Word form.



- A copy of the last promotional email used for state recruitment purposes in MS Word form.
- A copy of the last update of the SSDC Fact Sheet in MS Word form.
- A copy of the last versions of pages on the SSDC web page in MS Word form.

Contractor shall:

- If unable to perform under the contract, work with the State/SSDC to transition to a new contractor or designee of the DVHA/SSDC, promptly return all State/SSDC property, and shall immediately put in place safeguards and firewalls to preserve State/SSDC property and confidential information;
- Promptly inform the DVHA/SSDC if any criminal/civil actions or administrative investigations occur against Contractor or its sub-contractors by any state or federal entity during the term of this agreement; and
- Promptly inform DVHA/SSDC if Contractor cannot perform a task because Contractor believes there is a reasonable likelihood Contractor will engage in unlawful behavior, what aspects of the task Contractor can complete, if the task can be performed in another manner or if alternatives exist, and how Contractor will plan for and address similar matters in the future.

## **V. PERFORMANCE STANDARDS**

Performance standards have been established. See Attachment A – Appendix I.

## **VI. CONTRACT MONITORING**

The Support Services Contractor shall recognize that DVHA and SSDC Member States shall monitor the implementation, operations, and results and outcomes of this contract.

All records or information captured and compiled in this contract must be maintained for inspection and evaluation.

**Appendix AI**  
**Performance Standards**

1. Timely maintenance, development, review, and execution of agreements and contracts including but not limited the SSDC MOU, the rebate procurement contract, and any contracts that result from any other SSDC RFP. At a minimum, annual updates to the MOU as directed by the member states must be delivered to the states no later than December 1st prior to the MOU update year and the rebate procurement contract must be in place as of April 1 of any contract year unless the member states expressly specify an alternative date. Penalties apply if delays occur solely through the errors and omissions of the contractor.
2. Timely communication and coordination of issues related to the rebate services contract and any other SSDC contract. At a minimum, the directions and specifications of a state or states regarding specific concerns must be adequately represented to the rebate services or other contractor for resolution. That representation must be to the satisfaction of the member states. A determination of a failure under this item must be agreed to by a two-thirds majority of the member states.
3. Upon request, timely assistance to individual states in the development of SSDC specific individual Medicaid State Plan Amendments (SPAs) and in securing their approval by CMS. A determination of a failure under this item rests with the individual state affected. Penalties apply if a failure occurs or failures occur solely through the errors and omissions of the contractor. Disputes must be settled by a two-thirds majority of the member states.
4. Timely completion and transmittal to states of the accounting of state SSDC administrative costs for rebate collective and/or other contract services. A determination of a failure under this item must be agreed to by a two-thirds majority of the member states. Timely support for the Department of Vermont Health Access (DVHA) in the development of Member State invoices and the management of the tracking of payments. A determination of a failure under this item rests with DVHA. In both areas here, penalties apply if a failure occurs solely through the errors and omissions of the contractor.
5. Successful coordination of the SSDC annual business meeting, including agenda, materials development, and meeting management. That coordination must be to the satisfaction of the member states. A determination of a failure under this item must be agreed to by a two-thirds majority of the member states.
6. Successful execution of other management and administrative activities as defined in the contract. That execution must be to the satisfaction of the member states. A determination of a failure under this item must be agreed to by a simple majority of the member states.

**ATTACHMENT B  
PAYMENT PROVISIONS**

The Support Services Contractor shall be paid for services specified in Attachment A, for services actually performed, up to the maximum allowable amount specified in this contract.

The maximum dollar amount payable under this contract is not intended as any form of a guaranteed amount.

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 for services performed and any additional reimbursements are included in this attachment.

The following provisions apply:

1. Contractor invoices shall be submitted no more frequently than monthly, but no later than quarterly, and shall include the number of hours worked during the specified billing period and the total amount billed. The State shall pay the Contractor at the rate of \$200 per hour, inclusive of travel and other reasonable expenses. It is anticipated that duties relating to the outlined scope of work will constitute no more than 300 hours for the contract year beginning April 26, 2017. It is understood by the Contractor that the noted number of hours is not a guarantee of payable hours.

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

Meaghan Kelley  
Contracts and Grants Administrator  
E-mail: [Meaghan.Kelley@vermont.gov](mailto:Meaghan.Kelley@vermont.gov)

3. The total maximum amount payable under this contract shall not exceed \$60,000.
4. Payments on monthly invoices may be reduced for failures in the Performance Standards and Timelines set forth in Attachment A, Appendix I, of this Contract. See Attachment B, Appendix I for details regarding these reductions.

5. The State shall remit all payments to:

Midwest Drug Consulting, LLC  
3149 S. Dorchester Rd  
Columbus, Ohio 43221-2636

**Appendix BI**  
**Penalties/Liquidated Damages for Failures in Performance**

The Support Services Contractor shall:

- Agree that time is of the essence for purposes of deliverables and tasks.
- Acknowledge, accept, and abide by the Performance Standards outlined in this contract and agree to Penalties/Liquidated Damages for failures in performance regarding the services identified in the RFP.
- Put at risk 10% of monthly invoices from the time of notice of unsatisfactory performance until corrective action has been taken including, if applicable, the delivery of any satisfactory work product related to the performance failure. The Member States of the SSDC shall determine if the corrective action has been taken and if any related work product is satisfactory.
- Agree that this retainage process and the amount retained is a fair representation of the impairment of value of the contract created by late or inadequate performance on her part.
- Acknowledge that the release of retainage may take place after the satisfactory conclusion of or performance towards a given task as determined by the Member States of the SSDC.
- Agree that failure to meet timelines or to deliver required work products may result in forfeiture of retainage at the discretion of the Member States of the SSDC.

ATTACHMENT C  
CUSTOMARY 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 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.

*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 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:

- 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 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.

**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.

(End of Standard Provisions - State of Vermont – Attachment C - 7-1-2016\_rev)

**ATTACHMENT F**

**AGENCY OF HUMAN SERVICES' CUSTOMARY CONTRACT 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 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.

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 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:**

**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](http://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***

*Appendix I – Required Forms*  
**Department of Vermont Health Access**  
**Subcontractor Compliance Form**

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.**

*Required Language to include in Subcontracts:*

**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.

**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.

**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.

**Taxes Due to the State:**

- E. 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.
- F. 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.
- G. 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.
- H. 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.

Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed

by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

**Child Support:** (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:

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

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

**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.

**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>

**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.

**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.

**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.

