STANDARD CONTRACT FOR TECHNOLOGY SERVICES

1. **Parties.** This is a Contract for services between the State of Vermont, Department of Vermont Health Access (hereinafter called "State"), and Vermont Information Technology Leaders, Inc. (VITL) with a principal place of business in Burlington, Vermont (hereinafter called "Contractor"). Contractor's form of business organization is 501(c)(3) non-profit organization. It is Contractor's responsibility to contact the Vermont Department of Taxes to determine if, by law, Contractor is required to have a Vermont Department of Taxes Business Account Number.

2. **Subject Matter.** The subject matter of this Contract is services generally about development, and operations, of the Vermont Health Information Exchange (VHIE). Detailed services to be provided by 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 **$9,058,878.00**.

4. **Contract Term.** The period of Contractor's performance shall begin on January 1, 2021 and end on December 31, 2021. This Contract may be renewed upon mutual agreement by both Parties for an additional three (3) one-year terms.

5. **Prior Approvals.** This Contract shall not be binding unless and until all requisite prior approvals have been obtained in accordance with current State law, bulletins, and interpretations.

5A. **Sole Source Contract for Services.** This Contract results from a "sole source" procurement under State of Vermont Administrative Bulletin 3.5 process and Contractor hereby certifies that it is and will remain in compliance with the campaign contribution restrictions under 17 V.S.A. § 2950.

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

7. **Termination for Convenience.** This Contract may be terminated by the State at any time by giving written notice at least thirty (30) days in advance. In such event, Contractor shall be paid under the terms of this Contract for all services provided to and accepted by the State, which will not be unreasonably refused, prior to the effective date of termination.

8. *Attachments.* This Contract consists of 83 pages including the following attachments which are incorporated herein:

        Attachment A – Statement of Work
          Exhibit 1   – VITLAccess Terms and Conditions for State Health
        Providers Attachment B – Payment Provisions
        Attachment C – Standard State Provisions for Contracts and Grants
        Attachment D – Other Terms and Conditions for Information Technology Contracts
        Attachment E – Business Associate Agreement
        Attachment F – Agency of Human Services' Customary Contract/Grant Provisions
        Attachment H – Business Partner Agreement

9. *Order of Precedence.* Any ambiguity, conflict or inconsistency between the documents comprising this contract shall be resolved according to the following order of precedence:

1) Standard Contract
2) Attachment D - Other Terms and Conditions for Information Technology Contracts
3) Attachment C - Standard State Provisions for Contracts and Grants
4) Attachment A - Statement of Work with Exhibits
5) Attachment B - Payment Provisions
6) Attachment E - Business Associate Agreement
7) Attachment F - Agency of Human Services' Customary Contract/Grant Provisions
8) Attachment H - Business Partner Agreement

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT

STATE OF VERMONT   CONTRACTOR

Department of Vermont Health Access   Vermont Information Technology Leaders

_____   _____
CORY GUSTAFSON, COMMISSIONER   BETH ANDERSON, VITL PRESIDENT & CEO
NOB 1 South, 280 State Drive   1 Mill Street, Suite 249
Waterbury, VT 05671   Burlington, VT 05401
Phone: 802-241-0246   Phone: 802-861-1935
Email: Cory.Gustafson@Vermont.gov   Email: BAnderson@vitl.net

ATTACHMENT A – STATEMENT OF WORK

1. **Background:**

Pursuant to 18 V.S.A. § 9352, VITL is the State designated Contractor to operate the Vermont Health Information Exchange (VHIE). This Contract describes Contractor's specific obligations to operate, maintain and enhance the VHIE and associated and supporting products, infrastructure, and services.

The terms of this Contract include Operations related to:
- Operations of the VHIE System (Systems Management), including but not limited to, the Collaborative Services modules that have were implemented in CY'20: Master Person Index, Rhapsody Integration Engine, and Terminology Services
- VHIE System Security

The terms of this Contract also include system enhancements in service of end-user needs. These enhancements are categorized as follows:
- Data Access
- Consent Management for new data types
- Connecting EMS and Other Emergency Services to the VHIE
- Data Governance
- Data Extraction and Aggregation
- Completion of the Collaborative Services/New Data Platform
- Data Quality Services
- Public Health

System transitions and upgrade work included in this contract are intended to support compliance with the Health and Human Services (HHS) interoperability and patient access provisions of the 21st Century Cures Act (Cures Act) related to health information exchanges. As specified in Attachment B, all work considered systems enhancements (DDI) must be completed no later than September 30, 2021 and submitted for payment no later than October 11, 2021; Contractor will not receive payment for work completed after that date.

This Contract also includes security and risk assessment consultation services for providers in support of health care organizations participating in the Promoting Interoperability Program to receive incentives for the meaningful use and adoption of health information technology. This year, that work will be expanded to include educating providers about the Cures Act and Information Blocking.

Contractor shall perform its obligations under this Contract in coordination and collaboration with the State and the State's other Contractors.

2. Definitions:

2.1. *ADT* means a category of Health Level 7 message format typically used for patient demographics updates and for admission, discharge, and transfer events.

2.2. *Aggregation* means gathering data from multiple sources into a single representation of the sources.

2.3. *Architectural Quality Process* means a structured process resulting in a document that supports articulation of business, application, information, and technology design considerations that together describe how a proposed or existing solution meets the defined business needs and goals.

2.4. *Blueprint* means the Vermont Blueprint for Health as described in 18 V.S.A. Chpt. 13.

2.5. *Business Associate* means Contractor and any other contractor working with Contractor to fulfill its responsibilities under this Agreement, including but not limited to contractor(s), when any of them perform services described in 45 C.F.R. § 160.103.

2.6. *Continuity of Care Document (CCD)* means the specification which is an XML-based markup standard intended to specify the encoding, structure, and semantics of a patient summary clinical document for exchange.

2.7. *Certified Electronic Health Record Technology (CEHRT)* is a health IT product that has successfully passed testing on specific standards and criteria selected by the Centers for Medicare and Medicaid Services for use in specific programs. CEHRT can be achieved through use of a single system or a combination of modules that can be used together.

2.8. *Clinical Warehouse* means a real-time database (DB) that consolidates data from a variety of clinical sources for storage and use.

2.9. *Collaborative Services* means a collaborative project involving VITL, and the HIE Steering Committee to streamline data services required to improve healthcare in the State of Vermont.

2.10. *Connectivity Criteria* means the document that fulfills the obligation set forth in 18 V.S.A. § 9352(i)(2) that, "VITL, in consultation with health care providers and health care facilities, shall establish criteria for creating or maintaining connectivity to the State's health information exchange network. VITL shall provide the criteria annually on or before March 1 to the Green Mountain Care Board established pursuant to chapter 220 of this title."

2.11. *Cross Community Access* means the capability to query and retrieve patient medical data within the VHIE using a common set of policies and standards.

2.12. *Cureous Innovations (CI)* means the subsidiary of HealthInfoNet in Maine that is the currently contracted vendor for hosting Rhapsody and TermAtlas for the Contractor.

2.13. *21st Century Cures Act: Interoperability, and Information Blocking, and the ONC Health IT Certification Program Final Rule* means implementation of certain provisions of the 21st Century Cures Act, including Conditions and Maintenance of Certification requirements for health information technology (health IT) developers under the ONC Health IT Certification Program (Program), the voluntary certification of health IT for use by pediatric health care providers Patient APIs, and reasonable and necessary activities that do not constitute

information blocking.

2.14. *Deliverables Acceptance Document (DAD)* means an official document validating a deliverable has been reviewed and accepted or rejected by a State representative.

2.15. *Deliverables Expectations Document (DED)* means an official document representing what will be included in a deliverable before it is developed and submitted to the State by Contractor.

2.16. Design, Development and Implementation (DDI) means a process that encompasses all design, development and implementation activities required to effectively implement a technical solution.

2.17. *Direct Project* also known as *Direct, Direct Exchange,* and *Direct Secure Messaging* means the national encryption standard for securely exchanging clinical healthcare data via the internet. The Direct Project specifies the secure, scalable and standards-based method for the exchange of Protected Health Information (PHI).

2.18. *eClinicalWorks (eCW)* is an Electronic Health Record vendor for a number of HCOs in Vermont.

2.19. *Electronic Health Record (EHR)* means a digital version of a patient's chart. EHRs are real-time, patient-centered records that make information available instantly and securely to authorized users.

2.20. *Emergency Medical Services (EMS)* means emergency services which treat illnesses and injuries that require an urgent medical response, providing out-of-hospital treatment and transport to definitive care.

2.21. *Go-live* means the point at which the system and/or its sub-component(s) is/are officially and formally available to users in the production environment, who can then initiate transactions in the new system.

2.22. *Acceptance* means proof that the system and/or its sub-component(s) functions correctly as defined in the acceptance criteria for Go-live.

2.23. *HCI Master Person Index (HCI MPI)* means Master Patient Index in Health Catalyst Interoperability, formally known as Medicity, which links together patient identities from each source organization's Enterprise Master Patient Index (EMPI). Generally, an MPI uses demographic feeds from each participating provider as well as algorithms to accurately match records located in the various repositories to a unique individual.

2.24. *Health Care Organizations (HCO)* includes licensed medical providers such as private and commercial labs, hospitals, primary care and specialist practices, and community providers.

2.25. *Health Information Exchange (HIE)*, when used as a verb, means the electronic movement of health-related information among organizations according to nationally recognized standards with the goal of facilitating access to and retrieval of clinical data to provide safe, timely, efficient, effective, equitable, patient-centered care. An HIE, when used as a noun, refers to an organization that collects health information electronically, manages it, and makes it available across the health care system.

2.26. *HealthInfoNet (HIN)* means the Maine HIE, whose subsidiary is Cureous Innovations.

2.27. *Incident* means any known successful or known unsuccessful attempt by an authorized or unauthorized individual to inappropriately use, disclose, modify, access, or destroy any information or interfere with systems operations within an information system.

2.28. *Integration Engine* means the engine that provides an interfacing solution for health enterprises requiring comprehensive messaging between information systems. This allows HCOs to manage and streamline message exchange between applications, databases, and external systems.

2.29. *Interface* means a connection used for transferring certain types of data between a source or destination organization and VHIE with the ability to exchange data at the syntactic level. This includes but is not limited to transfer of demographic and clinical information from the HCO Electronic Health Record (EHR) and other clinical or administrative systems, transfer of laboratory orders and results, and transfer of diagnostic procedure orders and results. There are two parts to every interface: (1) an interface from the EHR vendor to the VHIE to send data and (2) the corresponding interface in the VHIE to receive the data from the EHR.

2.30. *Location* means a unique geographic location providing healthcare and can either be a single practice, hospital, or lab, or can be an offsite location of a larger healthcare system like a hospital or group of practices.

2.31. *Master Person Index or Master Patient Index (MPI)* means a unique identifier for every patient in the State of Vermont regardless of where they obtained health care.

2.32. *Meaningful Use* shall have the same meaning as in Title 42, Part 495 if the Code of Federal Regulations.

2.33. *MedicaSoft* means the vendor contracted to provide the foundations of the New Data Platform.

2.34. *Medication History* means a compilation of filled prescription information from a medication history service based on data gathered from participating pharmacies across the US, to include Vermont, and includes information such as medication name, strength, quantity, and fill date.

2.35. *Medicity* or Health Catalyst Interoperability (HCI) means the currently contracted vendor that provides infrastructure and other products and services to the State, by and through a contractual relationship with Contractor, in support of the VHIE and other HIE activities.

2.36. *New Data Platform* means the unified data repository with flexible capabilities. The platform is intended to store and provide data and reporting tools which support analysis of health care data for improvement of patient care and efficiency of the health care system.

2.37. *Office of the National Coordinator (ONC)* is the principal federal entity charged with coordination of nationwide efforts to implement and use the most advanced health information technology and the electronic exchange of health information.

2.38. *Onboarding* means the process by which the providers at an HCO are authenticated, granted access to a VHIE provider service, and trained in the use of that provider service. This process consists of three steps: (1) profiling the HCO, (2) enrolling authorized providers, and (3) launching the service at that HCO.

2.39. *Outcomes Based Certification (OBC)* means the Center for Medicare and Medicaid Services' systems certification process that aims to evaluate on how well Medicaid information

technology systems support desired business outcomes.

2.40. *Production* environment means the setting where the system, software and other services related to the system are put into operation for their intended uses by end users.

2.41. *Promoting Interoperability Program (PIP)* was established by CMS as the Medicare and Medicaid EHR Incentive Programs (now known as the *Promoting Interoperability Programs*) to encourage clinicians, eligible hospitals, and CAHs to adopt, implement, upgrade (AIU), and demonstrate meaningful use of CEHRT.

2.42. *Rhapsody* means the integration engine used by the VHIE to accept, process, transform and route messages to various downstream locations. Rhapsody has been identified as a critical service for the VHIE.

2.43. *Record Locator Service (RLS)* means an application that allows users or systems to identify where records are located based upon criteria such as personal identifier and/or record data type.

2.44. *Secure Message Repository* means the secure database where patient demographics and clinical data are stored in the VHIE.

2.45. *Security* means measures and procedures to protect the information within the VHIE and its supporting infrastructure through detailed reporting on incidents, incident notifications, restoration, and all related Security provisions. Security has been identified as a critical service for the VHIE.

2.46. *Sending Facility* means a Healthcare Organization's Electronic Health Record (EHR) system instance that would be represented by a single MSH-4 identifier and which could be served by a single Interface. This could contain multiple practice locations and/or multiple healthcare organizations in some cases.

2.47. *Single Sign On (SSO)* is the capability to log into multiple related, but independent software systems using one username and password.

2.48. *Stakeholder* means an individual, group, or organization, who may affect, be affected by, or perceive itself to be affected by a decision, activity, or outcome of a project.

2.49. *State Program Manager* means the Health Information Exchange program manager who oversees a number of projects and programs, managing performance and providing resources and oversight to the entities under their watch.

2.50. *Technical Support Services* means hardware and software support to resolve VHIE services issues.

2.51. *Terminology Services or Terminology Services Engine* means an application used to standardize data to a common terminology, including national and international code systems and value sets, enriching the data with context and meaning. Terminology Services has been identified as a critical service for the VHIE.

2.52. *Unique Identity* means assigning each patient a unique identifier to create a master patient index is essential to ensure data interoperability across all the points of patient care within a health system.

2.53. *Universal Master Patient Index (UMPI)* means a unique identifier for every patient in the State

of Vermont regardless of where they obtained health care. UMPI has been identified as a critical service for the VHIE.

2.54. *Verato* means the currently contracted vendor that provides UMPI solution to the State, by and through a contractual relationship with Contractor, in support of the VHIE and other HIE activities.

2.55. *VDH* means the Vermont Department of Health.

2.56. *VHIE* Supporting Infrastructure means any technical infrastructure, hardware, and software utilized by Contractor to provide services, capabilities, and support to the operation, and expansion of health information exchange in Vermont.

2.57. *VITLAccess* means one of several service offerings provided to authorized users. VITLAccess is a secure Internet portal which provides authorized users, with proper patient consent, a patient-centered view of the Personal Health Information (PHI) available through the VHIE.

2.58. *VITLDirect* is a secure messaging service that enables health care organizations to send messages to other providers.

3. Operations – Description of Services

Contractor shall maintain the technical infrastructure, software, hardware, and architecture of the VHIE.

3.1. Contractor shall meet the service level and other operational requirements listed in this Section 3 and demonstrate efficient and effective operation of the VHIE and its supporting infrastructure through detailed reporting on availability, Technical Support Services, and Performance. This shall include:

   i.   Operate the Collaborative Services and Clinical Warehouse to ensure they are operational seven (7) days a week and 24 hours a day with at least a 94% average monthly uptime. This infrastructure includes the Integration Engine, Terminology Service, and Clinical Warehouse;

   ii.   Provide the State with Contractor's downtime notification policy detailing the notification procedures in the case of downtime of any of Contractor's services provided under this Contract on an annual basis. The policy shall describe which customers are notified after what period of downtime, and which services apply to this policy;

   iii. Report unplanned downtime periods exceeding two (2) hours in duration of the VHIE, VITLAccess, VITLDirect, direct connection to State systems, or other data exchange services to the State Program Manager at the time of VHIE client notification. Contractor shall notify clients of planned downtime activities that impact use of the VHIE;

   iv.   Operate disaster recovery capabilities, as defined in the Disaster Recovery Plan provided by CI to the Contractor and approved by the State, to recover from unplanned downtime events in the VHIE production infrastructures;

    v.   Utilize the VHIE Technical Support Services Team to support client and client EHR vendor issues related to maintaining connections to the VHIE and its supporting infrastructure; and

    vi.   Respond to all client technical support inquiries within 48 hours.

    vii.   Operate and maintain the Verato Master Person Index including work with the contributing organizations and their vendors to address any issues related to identity management and person records.

    viii.   For Medicaid beneficiaries, maintain an identity matching rate of at least 90% and a monthly duplicate records reductions rate of 5%, until the total records count falls within a 10% margin of the actual population count.

    ix.   Operate and maintain a Terminology Services (TS) engine. For this Contract Term, Contractor shall continue to operate and maintain the TS engine to standardize local codes and unmapped data elements in HL7 Version 2 (ADT, Lab, Rad, Trans, VXU), HL7 Version 3 (CCD) message types, and FHIR Resources. The operations of the TS engine, include but are not limited to:

        a)   Hemoglobin A1C or HGA1C (average blood sugar level)
        b)   Fecal occult (presence of microscopic blood in the stool)
        c)   High-density lipoproteins or HDL cholesterol ("good" cholesterol)
        d)   Low-density lipoproteins or LDL cholesterol ("bad" cholesterol)
        e)   Cholesterol in Serum or Plasma (total cholesterol plus triglycerides)
        f)   Triglycerides (amount of fat in the blood)
        g)   Glomerular filtration rate (kidney blood filtration)
        h)   Creatinine (waste levels in blood)
        i)   Colonoscopy
        j)   Blood Pressure
        k)   Depression Screening
        l)   Depression Follow up
        m)   Tobacco Use Screening
        n)   Tobacco Cessation Follow-up

    x.   Operate and maintain the vendor-hosted Rhapsody Interface Engine. Operation shall cover a consolidated pathway into the new Fast Healthcare Interoperability Resource (FHIR) clinical data warehouse. Any new data interfaces directly to the legacy Health Catalyst Interoperability (HCI) platform or the on-premise Rhapsody requires a special waiver from DVHA.

3.2. Contractor shall provide the following data access services:

    i.   Operate the Secure Message Repository as part of the VHIE Supporting Infrastructure. The Secure Message Repository must be operational seven (7) days a week and 24 hours a day with at least a 94% average monthly uptime. The Secure Message Repository includes the RLS server and database server;

    ii.   Maintain the levels of performance (including, but not limited to, a User Directory to maintain roles and privileges), availability, and Security for the VITLAccess web-based service as defined in the correlating DED;

    iii.   Maintain all additional data exchange service implementations from EHRs such as network

to network query capability, including Cross Community Access;

iv.   Operate the technology that allows authorized health care providers, with patient consent, the ability to obtain Medication History through VITLAccess as provided by Contractor's Medication History vendor;

v.   Maintain VITLDirect, which allows for secure communication, including the transmission of protected health information (PHI) between providers per the Direct Project standards and protocols; and

vi.   Provide, as set forth in Exhibit 1 of this Attachment A, access to Medicaid beneficiary records in the VHIE to Statepersonnel who are "health care providers" under Vermont law, in order to facilitate the State's provision of case management and care coordination activities for Vermont Medicaid beneficiaries.

3.3.   Contractor shall perform the following data extraction and aggregation services:

i.   Operate a Record Locator Service to index and retrieve clinical patient records from individual organizational repositories;

ii.   Operate an Integration Engine to structure and route messages within the VHIE and its supporting infrastructure;

iii. Transport and validate immunization HL7 messages, or other message types as approved by the Vermont Department of Health (VDH), in accordance with the Center for Disease Control (CDC) Immunization Implementation Guide, as modified by the VDH Immunization Implementation Guide, without altering the immunization message content, and deliver messages to the VDH Immunization Registry;

iv.   Transport and validate Laboratory HL7 messages, or other message types as approved by the VDH, in accordance with the National Institute for Standards and Technology (NIST) Electronic Laboratory Reporting requirements, or VDH minimum requirements for other message types, and deliver messages to the VDH Rhapsody engine for ingestion into the National Electronic Disease Surveillance System (NEDSS) Base System (NBS);

v.   Adhere to the Interface Maintenance, Updates, Monitoring and Support Requirements detailing the data connection between the VHIE and the State's Care Management Solution;

vi.   Maintain the Technical Support tickets backlog (open tickets) to no more than 15% of previous thirty (30) days running total;

vii. Respond to client Interface inquiries within two (2) business days; and

viii. Maintain an average monthly recovery time of fifteen (15) business days or less for all down Interfaces, excluding lost connections due to HCO source system technical decisions or issues.

3.4.   Contractor shall maintain consent management technical and operational infrastructure to support the State's consent protocols for access to data on the VHIE. Contractor shall also support patient education about consent choices by making resources available to health care

organizations and directly to patients.

3.5. Contractor shall leverage the newly implemented Collaborative Services platform to support Medicaid services, including but not limited to, data reporting for the Blueprint for Health Program, and the HEDIS Report gap analysis.

3.6. Contractor shall continue to manage the subscription process for the hosting service at Knack for the Blueprint Portal, as required by the Blueprint team. The Blueprint portal includes an interface for sharing Blueprint practice and connectivity data with VITL for the purpose of facilitating any future data quality work conducted with Blueprint practices.

3.7. Qualified DVHA and VDH personnel shall have access to the VHIE through its provider portal, VITLAccess, in accordance with the terms and conditions set forth in Exhibit I to this Attachment A.

3.8. **Operations – Deliverables**
To demonstrate its operation of the system in accordance with the requirements specified above in this Section 3, Contractor shall:
  i.   For Medicaid Services –
    a)   Produce the Blueprint VCR extract based on the Blueprint specified priority one data elements for the initial extract at a minimum, and with a continuing cadence as determined through the DED process.
    b)   Produce a report for Medicaid summarizing the HEDIS data gap analysis for Controlling Blood Pressure as determined through the DED process.

  ii.   Provide the State with a monthly report detailing adherence to requirements specified in this Section 3. The details of this report will be determined through the DED process. The report shall include, at a minimum, the following elements:
    a)   List of immunization validations implemented specific to meeting the VDH Immunization HL7 Implementation Guide annually, or if updated
    b)   Uptime of VHIE, Collaborative Services, and Clinical Warehouse infrastructures including the following components: Record Locator Service, Integration Engine, Master Patient Index, clinical warehouse, Terminology Services Engine, Provider Portal, VITLDirect, Transactional Database, and Reporting Database; and
    c)   Total number of technical support tickets, total number of new tickets opened, total number of tickets resolved, and number of tickets remaining in an unresolved status with aging.
    d)   VXU Immunization error line chart to show the number of errors reported each month over time.
    e)   Medicaid MPI matching rate

f)   Evaluation of at least 5% of any 70% probability or higher potential Medicaid matches

g)   Number of Overall Unique identities in the system, including out-of-state data;

h)   Number of Unique identities for each VT Sending Facility (this will include out-of-state patients who get care from a Vermont HCO);

i)   Number of source records associated with these people (This will reflect if a unique person has data from multiple source sending facilities in the system);

j)   New unique people added to the MPI; and

k)   New source person records matched into existing people in the MPI.

l)   Number of sending facilities subject to terminology services;

m)   Number of data concepts being applied;

n)   Number of codes mapped for the data concepts; and

o)   Number of codes inserted into messages.

p)   Percentage of adult Medicaid patient visits that month that included a Blood Pressure reading

q)   Percentage of adult Medicaid diabetic patients that visited a doctor that month and had an A1C test in the past year.

r)   Number of ADT messages sent to Event Notification Services for care coordination.

s)   Report detailing Medicaid beneficiary hospitalization utilization (ED, inpatient, readmission).

4. Security – Description of Services

4.1. Contractor shall demonstrate that effective security measures and procedures are in place to protect the information within the VHIE and its supporting infrastructure through detailed reporting on incidents, incident notifications, restoration, and all related security provisions.

4.2. Contractor shall maintain security of the VHIE system and meet the following requirements in doing so:

    i.   maintain a prioritized, risk-based approach to security through maintenance of a National Institute of Standards and Technology (NIST) cybersecurity framework (CSF) assessment; and

    ii.   provide best practice, secure infrastructure for the VHIE and its supporting infrastructure through continuous process and procedural improvement towards a CSF that supports NIST moderate level compliance.

4.3. Security – Deliverables:

The plan of action and milestones outlined in NIST 800-53 *Security and Privacy Controls for Federal Information Systems and Organizations* shall serve as the Plan of Action and Milestones (POA&M) template to be used as a project plan for meeting compliance with the requirements of this contract. Contractor shall:

 i. Present the POA&M to the Agency of Digital Services (ADS) Security Lead on a monthly basis. Contractor's presentation shall include progress made in remediating identified issues and any new issues that have arisen. The ADS Security Lead shall use security guidelines and standards set forth by the Center for Medicare and Medicaid Services (CMS) to guide his/her evaluation of the presented materials. Approval of Contractor's monthly reports is contingent upon State approval of remediation timelines;

 ii. Annually obtain or perform security risk assessments for Contractor's third parties that transmit, process, or store data under this Contract. Third parties may include but are not limited to vendors whose systems store or process VHIE data. Contractor shall deliver reports detailing each security risk assessment to the State within fifteen (15) calendar days of completion of the report, but no later than thirty (30) calendar days before the end of the Contract term;

 iii. Ensure that test environments mirror production environments in patching, security controls, and security assessments and that test environment data is scrubbed after each use. Contractor shall provide a signed attestation annually stating this occurred; and

 iv. Furnish the following reports and adhere to the reporting requirements in the National Institute of Standards and Framework's Cybersecurity Framework/Internal Revenue Service (NIST-CSF/IRS) table below:

NIST-CSF/IRS Reporting Requirements				
NIST CSF/IRS Reference	**Task name**	**Deliverable**	**Periodicity**	**Deliverable Due Date**
DE.CM-3	Privileged Account review	*Signed Attestation*	*Weekly (minimum)*	*End of Each State Fiscal Year Quarter*
DE.AE - 2-5	Audit log review	*Signed Attestation*	*Weekly (minimum)*	*End of State Fiscal Year Each Quarter*
DE.CM - 1, 4, 5, 6, 7	Continuous monitoring/Security metrics report	*Signed Attestation*	*Monthly*	*End of Each State Fiscal Year Quarter*
ID.RA-6	POAM Review	*POAM deliverable*	*Monthly*	*Monthly*
DE.CM-8	Vulnerability Assessment	*Executive summary from Vulnerability scans*	*Quarterly*	*Quarterly*
PR.AC - 1, 2, 3, 6, 7	System Access review	*Signed Attestation*	*180 days*	*180 days from the last System Access Review*

PR.AC -4	Roles review for separation of duties -	*Signed Attestation*	*Annual*	*Annual*
PR.IP-9	Contingency plan review/test	*Contingency Plan documentation and signed Attestation training was completed*	*Annual*	*Annual*
PR.IP-10 RS.CO-1	Incident Response Plan review & training	*Incident Response Documentation and signed attestation that certifies that Incident Response Tabletop exercise has been completed*	*Annual*	*Annual*
ID.RA- 1-6	Risk Assessment	*Risk Assessment Documentation*	*Annual*	*Annual*
PR.AT-1-5	Awareness training	*Signed Attestation*	*Annual*	*Annual*
PR.IP-2	Review System Security Plan and update	*System Security Plan Documentation*	*Annual*	*Annual*
PR.IP-9	Disaster recovery presentation and Review	*Disaster Recovery Documentation*	*Annual*	*Annual*
ID.RA-3,4,5	System wide Security Assessment	*Results of independent assessment*	*Annual*	*Annual*
ID.RA-1	Pen Test	*Results of penetration test*	*Annual*	*Annual*
ID.RA-1	Static/Dynamic Code Analysis or peer review	*Signed Attestation*	*Major release or when security impact triggered*	*As Needed*

5. **VHIE Enhancement: Data Access – Description of Services**
   5.1. Contractor shall expand access for providers to health data through available methods including VITLAccess, Single Sign On (SSO) directly from an EHR to the VITLAccess provider portal, Cross Community Access, and direct data feeds of transcribed reports, laboratory and radiology results from the VHIE to EHR systems. Contractor shall follow the technical standards set forth in federal and state regulation to facilitate the exchange of health data including, but not limited to, claims data, social determinants of health data, mental and physical health data and

substance use disorder data. This includes incorporating new data transmissions standards like Fast Healthcare Interoperability Resources (FHIR) and updating Connectivity Criteria based on USCDI and end-user needs, where possible and supported.

5.2. Contractor shall remain current in supporting all HL7 data transmission standards of Certified Electronic Health Record Technology (CEHRT) required by ONC under the federal Promoting Interoperability Program (PIP), including support for FHIR.

5.3. Contactor's work under this section shall include the following:

   i.   Expand access to patient data through the onboarding of new entities on VITLAccess, VITLAccess SSO or Cross Community Access
   ii.   Implement data access expansion in the form of direct feeds of transcribed reports and laboratory and radiology data to EHR systems in accordance with the prioritized implementation list
   iii. Implement data access remediation.

6. **Consent Management – Description of Services**
    Contractor shall develop stakeholder informed VHIE policies and procedures that will enable a consent management process that supports aggregation and access to clinically sensitive data (to be defined through the DED process) including, but not limited to, data governed by 42 CFR Part 2. Contractor shall incorporate into the VHIE policies and procedures changes to federal rules about data access to substance use disorder data such as those resulting from the CARES Act, and act according to existing regulations until changes are made official. Contractor shall involve stakeholders in the development of the consent management process and educate stakeholders about potential changes impacting data collection and exchange of clinically sensitive data.

    Contractor shall:
    i.   Develop policies, procedures, and documentation to support access to clinically sensitive data
    ii. Prepare, but not implement, pilot policies and procedures for managing clinically sensitive data with one or more health care organizations. To demonstrate this preparation, Contractor will provide:
        a. information about the selected pilot site(s) and associated pilot implementation plans, which shall include but not be limited to consent management workflows to enable patient education and consent decision making
        b. pilot site provider, staff, and patient education strategies and materials
        c. pilot evaluation strategies.
    iii. Develop an education program to introduce substance use disorder treatment community and mental health treatment community to the VHIE and build awareness of projected plans for 2022 piloting and rollout of sensitive data sharing policies and procedures. The details of the education program will be confirmed through the DED process.

7. **Connecting EMS and Other Emergency Services to the VHIE – Description of Services -**

Contractor shall help provide health care data to clinicians, EMT/Paramedics, and other emergency healthcare providers through a web-based platform in the event of a disaster or emergency. Contractor shall participate in a national network(s) to support nationwide access to patient data to allow the ability to support Vermonters who could be affected by emergencies in Vermont or in another state participating in the national network, and to allow emergency healthcare providers to support visitors to Vermont impacted by an emergency in Vermont. Contractor shall work to build awareness among emergency response organizations/coalitions of the opportunity to incorporate access to VITL data into their emergency response plans, solicit feedback on the implementation plan, and offer live and on-demand training to these organizations and emergency health care providers.

To facilitate work under this section, Contractor shall provide:
  i. Project management and coordination of stakeholders to encourage and support incorporation of VITLAccess into emergency response planning.
  ii. Live training for emergency healthcare response/preparedness organizations to introduce organizations and staff to how to use VITLAccess.
  iii. Attestation that live training has occurred, listing date and participating organizations and number of individuals.
  iv. On-demand training or support resources to help VITLAccess users learn how to use the portal, including but not limited to resources that will be accessible in emergency situations where time to train is limited and quick, task-oriented how-to's are needed.
  v. Contractor shall implement and test the connection from the Provider Portal to the eHealth Exchange Hub. This testing will involve working with eHealth exchange to validate our initiator and responder configurations prior to their providing approval to move to production.
  vi. Contractor shall create a Cutover planning document with all affected systems for the eHealth Exchange solution to move to Production that describes the plan and timing for Go Live.
  vii. Contractor shall provide proof that the eHealth Exchange Connection is live in Production and is functioning as expected. Provide attestation affirming successful queries to the network in Production.

8. **Architectural Quality Process - VITL Data Governance Implementation – Description of Services**
   Contractor shall implement a data governance policy that:
   • documents guidelines for ensuring that data within the VHIE is managed consistently and used properly. Such guidelines will include policies covering stakeholder engagement, data quality, access, security, privacy, usage, and roles and responsibilities.
   • articulates principles, practices, and standards that are determined to ensure data assets are protected and maintain the highest quality standard.
   • defines the data governance structure used by stakeholders and VITL personnel to follow in their daily operations.

To facilitate work under this section, Contractor shall:

  i. Complete and deliver documentation of all relevant policies and procedures supporting data governance identified in chapter 8 of the VITL Data Governance Implementation Charter created in CY20 for all existing data types and new data types planned in the CY 21 contract.

ii. Develop and deliver documentation of a data dictionary that consists of a centralized repository of information about VHIE data such as meaning, relationships to other data, origin, usage, and format.

iii. Complete and deliver documentation of the Data Governance Policy that is approved by the VITL Board of Directors.

iv. Create and deliver documentation of a stakeholder engagement plan to Educate select stakeholders, including but not limited to the HIE Steering Committee, VHIE data contributors, and VHIE data users, on VITL's Data Governance Policy.

These deliverables will be more specifically defined by the DED process.

9. Data Extraction and Aggregation [VHIE Connectivity]

Contractor operates a Health Information Exchange. To facilitate the sharing of health records, the Contractor will follow existing and new standard data exchange transport protocols including putting support for FHIR APIs in place for both HCO and Patient uses. As called for in 45 CFR Parts 170 and 171, RIN 0955-AA01, CMS's Interoperability and Patient Access Final Rule (CMS-9115-F) identifies HL7 FHIR as the foundational standard to support data exchange via secure APIs and US Core Data for Interoperability (USCDI) version 1 data set for defining electronic health information (EHI). Contractor shall comply with this standard by the deadlines articulated in associated federal regulations. Interfaces shall be developed by Contractor in partnership with HCOs and their respective EHR vendor(s) and for any HCOs that are not yet able to meet the new interoperability standards, the Contractor will provide mapping services to FHIR, so that this data can be made available via the proposed new FHIR APIs. These APIs will provide a standard way for the VHIE stakeholders to exchange data seamlessly in the future, and to enable patients electronic access to their data.

9.1 Contractor shall Continue working on Connectivity projects that are already in progress but not yet completed and also continue to support Public Health initiatives based on mandates and critical program needs. See Section 13 of the contract for more details surrounding this.

Contactor's work under this section shall include the following deliverables:

i. Develop a Tactical Interface Plan that provides the following:
   a. Results of a survey of EHR vendors known to be used by HCOs contributing data to the VHIE for their FHIR API capability and readiness in 2021;
   b. Timeline for when the FHIR API for contributing data will be ready;
   c. Projections for interface projects, specifying projects that will be completed during the remainder of the year; and
   d. Migration paths and planning for current legacy interfaces to move to the latest FHIR standards/protocols.

9.2 Develop connections to the VHIE that are compliant with new federal standards:

Contactor's work under this section shall include the following deliverables:

    i. Develop VHIE Procedures for onboarding users of FHIR APIs that are contributing data to the VHIE.

    ii. Implement and Test the FHIR API for Data contribution and provide an attestation that the work is complete.

    iii. Update Contractor's existing Baseline Connectivity Evaluation Scoring document to accommodate FHIR standards.

    iv. Update the Interface Prioritization Matrix documentation for CY21 via the Subcommittee for the HIE Steering Committee to reflect the desire to move to FHIR based interfaces.

    v. Create a migration plan that documents what the planned transition from FHIR R3 to R4 for Claims data will consists of and defines the needed high-level testing scenarios for validating the migration, as well as any other risks or dependencies of the migration.

    vi. Migrate the Data Repository upgrade from FHIR R3 to R4 for Claims data and provide an attestation that the work is complete.

    vii. Test the Data Repository upgrade from FHIR R3 to R4 for Claims data and provide an attestation that the work is complete.

    viii. Migrate HL7 HCO data connections from Health Catalyst to the VHIE for application of the Master Patient Index, Terminology Services and translation into the FHIR DB.

    ix. Implement Pilot FHIR Interface for Data contribution with an HCO selected based on the survey and that are approved on the Interface priority list by the HIE Steering Committee. Attestation by the HCO or their vendor will be provided confirming that the interface is live and functioning as expected.

9.3 Increase the volume of data flowing to the VHIE.

Contactor's work under this section shall include the following deliverables:

    i. Create a plan for a minimum of five (5) FHIR Interface connections after the FHIR Pilot is live with HCO locations that are approved on the Interface priority list developed in collaboration with the HIE Steering Committee.

    ii. Implement a minimum of (30) Interface connections that will be mapped to the FHIR DB with HCO Locations that are approved on the Interface Prioritization Matrix by the HIE Steering Committee. Attestation by the HCO or their vendor will be provided confirming that the interface is live and functioning as expected.

    iii. Provide Connectivity Dashboard, which will include data about all current and requested VHIE Connections for locations either contributing data or utilizing data.

9.4 Increase the quality of data flowing into the VHIE (at the source, translated at the VHIE, and distributed to users):

Contactor's work under this section shall include the following deliverables:

    i. Update the Connectivity Criteria for Physical Health and Mental Health and Behavioral Health to ensure consistency with USCDI & FHIR standards. The Criteria is to be approved by the HIE Steering Committee in 2021

    ii. Expand the Connectivity Criteria to include Medicaid claims data based on available standards. The Criteria is to be approved by the HIE Steering Committee in 2021.

    iii. Collaborate with Vermont Rural Health Alliance (VRHA) to establish updated data quality protocols for the VHIE (See section 10 of the Contract).

    iv. Provide Connectivity Criteria to the HIE Steering Committee for approval for inclusion in the 2021 update to the Health Information Exchange Plan.

9.5 Expand the quality and quantity of feeds from the VHIE to HCOs:

Contactor's work under this section shall include the following deliverables:

    i. Develop VHIE Procedures for onboarding HCO users that wish to access data in the VHIE using FHIR APIs.

    ii. Develop VHIE Procedures for authenticating and providing access to available USCDI data in the VHIE via FHIR API.

    iii. Implement and Test the FHIR API for HCO Data Access of VHIE Data.

    iv. Implement and test the FHIR API for Patient data access of their USCDI data.

    v. Go live with the FHIR API for HCO Data Access. Attestation by the HCO or their vendor will be provided confirming that the interface is live and functioning as expected.

    vi. Go live with the FHIR API for Patient Data Access. Attestation will be provided confirming that the API has been accessed by the patient.

10. VHIE Enhancement: Data Quality Services

Contractor shall subcontract with the Vermont Rural Health Alliance (VRHA), a project of Bi-State Primary Care Association and a Health Center Controlled Network (HCCN), to execute the Model for Improvement, a data use process designed by VRHA, with Vermont HCOs. The Model aims to improve individual processes or behaviors occurring within the clinical setting that impact chronic conditions and preventive care. Through this data-informed approach, VRHA helps HCOs to identify issues, develop and execute improvement measures, and track progress towards goals.

The Model was developed for use with Federally Qualified Health Centers (FQHC). Contractor will support VRHA in expanding the Model for deployment with other HCOs beyond FQHCs.

Data sources necessary for the implementation of the Model include Medicaid claims data which will be provided to VRHA by DVHA. Both the implementation and development of the Model support DVHA's quality improvement activities under the Medicaid State Plan.

To execute the Model for Improvement, Contractor shall subcontract with VRHA to:
- Maintain and augment the data model to support data quality and quality improvement.
- Use information technology systems to support data quality and quality improvement with HCOs.
- Collaborate with Contractor to develop a program that allows for spread of these methodologies to other primary care practices in Vermont.

Contactor's work under this section through a subcontract with VRHA shall include the following deliverables:

   i.   A monthly report of accomplishments and plans with a summary of activities, to be submitted to the State, including but not limited to:
        a.   A summary of data and stakeholder work
        b.   Data extracts and Qlik applications that have been developed or enhanced
        c.   Model for Improvement designs with HCOs
        d.   HCO education strategies and plans
        e.   Engagement with stakeholder groups and impacted HCOs to further refine the program and plans to promulgate the program more broadly
   ii. Operational support for data quality services implementation.

11. VHIE Enhancement: Collaborative Services/New Data Platform

Contractor shall continue to implement the new data platform that will enable the Health Information Exchange to meet the new Federal interoperability guidelines, improve existing services for healthcare organizations, and enable future services.

11.1 Roadmap

Contactor's work under this section shall include the following deliverables:

   i.   Contractor shall develop a Platform roadmap for CY2021 and beyond that provides the following:
        a.   Timeline for when Transactional DB will be available.
        b.   Timeline for when Relational DB will be available.
        c.   Timeline for when Provider portal will be available.
        d.   Projections for any other services.
   ii. Contractor shall provide Status reports to DVHA twice a month detailing the progress on implementing the different phases of the new platform.

11.2 Databases

The databases that hold the clinical information contributed to the VHIE are critical for multiple use cases, including clinical decision making in real time at the point of care for providers, data quality reporting to understand the data and work to improve where Terminology Services can be applied or where there are data gaps from the sending facilities, and to perform reporting that is needed to support statewide initiatives. This work is to develop, test and implement transactional and relational databases for the VHIE that are compliant with new federal standards, and support data quality and reporting needs now and in the future.

Contactor's work under this section shall include the following deliverables:

   i.   Integrate Terminology Services into the FHIR transactional database, so that any new terminology mappings applied now and in the future can be applied retroactively to data

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already stored in the database. Contractor shall provide State an attestation affirming successful integration.

ii. Integrate the MPI tool into the FHIR transactional database, so that any updates to the identities of a person based on new data received can be applied retroactively to the data already stored in the database. Provide an attestation affirming successful integration.

iii. Create a cutover planning document with all affected systems for the FHIR transactional database move to Production that describes the plan and timing for Go Live.

iv. Determine data model for relational database that will support internal and external reporting needs. This needs to support multiple stakeholders, support all the standardized elements from the FHIR database, and be flexible enough to support future use cases. Data model should follow modular design principles.

v. Complete relational database implementation to ensure database model components exist and are configured to transfer data from the FHIR transactional database into the new relational database. Contractor shall provide an attestation affirming successful implementation when completed.

vi. Complete relational database testing to ensure data is being translated and stored appropriately from the FHIR transactional database in the relational database. Contractor shall provide an attestation affirming testing is completed.

vii. Create a Cutover planning document with all affected systems for the relational database move to Production that describes the plan and timing for Go Live

viii. Evaluate and define which legacy system reports can be replaced by other functionality and any steps to enable these in the new platform, which reports are no longer needed and which reports will need to be rewritten against the new databases and document the plan.

ix. Re-write the other needed reports for go live against either the FHIR database or the relational database based on the evaluation of needs planning. Provide attestation affirming successful implementation.

x. In preparation for decommissioning the legacy HIE database functionality, an evaluation of all existing functionality must occur to determine if it is still needed, can be retired, or is still needed in a modified solution. The results of the evaluation will be documented.

xi. Complete a plan for decommissioning of legacy HIE databases based on the evaluation of needed functionality. The plan will include timing for decommissioning or migration of the different functionality.

xii. Medicaid Claims data requirements development to include FHIR Mapping table that will enable streamlined development, if any is needed, and be used to accurately test once the data has been ingested into the FHIR database.

xiii. Social Determinants of Health (SDoH) data evaluation for the three data types that have been identified as the first priorities: Medicaid Program Screening Data, Economic Data, and Housing Data as provided by the State of Vermont Agency of Human Services. Contractor will utilize available mapping of SDoH data that the Gravity Project has done in the evaluation to determine if there are any current gaps in FHIR resources for the data in the 3 priority file types. This evaluation will inform future decisions on how best to utilize and ingest this new data type into the new platform.

xiv. Contractor shall provide proof that the transactional FHIR database is live in Production and processing real time message flow, by providing an attestation affirming successful data flow.

xv. Contractor shall provide proof that the relational database is live in Production and contains the data needed for analysis and reporting. Provide attestation affirming successful data transfer from the Production FHIR database.

xvi. Contractor will develop Consent Test Plans to ensure that all the necessary Consent scenarios are tested to include minor consent, default settings, and auditing, as well as Part 2 consent pending availability of final guidance.

xvii. Contractor will implement and execute the test plans developed to ensure that the Provider Portal general consent functionality is working as expected and follows the state consent policy.

xviii. Contractor will implement and execute the test plans developed to ensure that the Provider Portal Part 2 consent functionality is working as expected, and follows the new Federal rules if available.

xix. Contractor shall rewrite all of the complex logic to generate and test the daily COVID-19 Hospitalization report to run against the Relational database.

xx. Contractor shall implement, test, and prepare the Relational database view for access by the first client for testing. This includes testing auditing functionality of external access to the relational database.

xxi. Ingest the Medicaid claims pilot file into the FHIR database and test all of the required fields are being stored accurately in the FHIR transactional database.

xxii. Build an interface to accept three (3) SDoH pilot files (Medicaid Screening, Economic and Housing data), enrich each with the Master Patient Index tool with needed patient identifiers, and deliver the files to the stakeholders on a monthly basis for the remainder of the contract period after the first files are delivered.

xxiii. Decommission of the initial group of legacy databases as addressed in the plan. This is a key first step to reduce the number of legacy VHIE databases that are in production and to fully decommissioning the legacy systems in favor of the new platform and cloud based alternatives which align with the VHIE strategic technology goals.

11.3 Provider Portal/Direct Secure Messaging/Results Delivery

The VHIE provides data services to users at the point of care to facilitate better outcomes when treating Vermont patients, which include :

- A provider portal where providers can look up their patients' aggregated longitudinal healthcare data that includes data from across the state for all the data contributors to the VHIE.

- Direct secure Messaging which enables providers to securely email clinical data to one another to support transitions of care between facilities.

- Results delivery which delivers laboratory, radiology, and transcribed reports electronically directly into the provider EMR for their use within their preferred workflow.

These key services will need to be migrated to solutions that can utilize the new Transactional FHIR database and message data flows to include the Master Patient Index, and Terminology Services that have been implemented as part of the Collaborative Services project over the past year.

Contactor's work under this section shall include the following deliverables:

i. Contractor shall complete Implementation and testing of the Direct Secure Messaging Solution functionality for all currently defined use cases. Provide attestation affirming successful implementation.

ii. Contractor shall create a Cutover planning document with all affected systems for the Direct Secure Messaging Solution move to Production that describes the plan and timing for Go Live

iii. Contractor shall update all VHIE Procedures and Client documentation for the Direct Secure Messaging solution to follow the standard Direct Trust protocols.

iv. Contractor shall select and contract for a Provider Portal that can utilize the FHIR API on the Transactional FHIR database to obtain the necessary data and be a modular component of the HIE technology stack going forward.

v. Contractor will integrate and test the Master Patient Index with provider portal solution to ensure that there is a consolidated view of all the known patient records for a person.

vi. Contractor will implement and test the functionality and the data presentation of the provider portal, to ensure the application and the data shown are what is expected based on the underlying data. This step will also identify if there are any functionality gaps that need to be closed in the future and is a critical step in preparation for go live.

vii. Contractor shall update all VHIE Policies and Procedures for provider portal to include items like setting up new organizations, provisioning new users, and auditing user accounts.

viii. Contractor shall set up and configure all existing Client Organizations in the provider portal with the appropriate data rights, permissions, roles, and other settings unique to each organization in preparation for Production rollout.

ix. Contractor shall create a Cutover planning document with all affected systems for the provider portal move to Production that describes the plan and timing for Go Live.

x. Contractor shall determine the requirements needed for a Results Delivery solution based on current and future needs. This will be a document that can influence the requirements in a vendor contract.

xi. Contractor shall select and contract for a Results Delivery solution that meets the VHIE requirements.

xii. Contractor shall develop a Test plan for Results Delivery based on the requirements document that covers all the use cases and functionality that clients will have available.

xiii. Contractor shall create a project planning document with all affected systems for the Results Delivery move to Production that describes the plan and timing for Go Live.

xiv. Contractor shall provide proof that the Direct Secure Messaging solution is live in Production and is working as expected. Provide attestation affirming successful message transfer in Production.

xv. Contractor shall provide proof that the Provider Portal is live in Production and is functioning as expected. Provide attestation affirming successful move to Production and Production data is available in the Portal.

xvi. Contractor shall migrate the identified Pilot Client(s) to new Provider Portal as initial users who can provide valuable feedback to the VHIE on the training materials, the

system, and the data, so that adjustments can be made to ensure as smooth a transition for the rest of the users who will be migrated in the future.

12. Client Services Meaningful Use and Security Risk Assessment Consulting:

    i.   Contractor shall provide Meaningful Use, Security Risk Assessment, and Interoperability Rule Education consulting to Vermont's eligible health care providers.

    ii.   Contractor shall provide the State with attestations from impacted entities of Security Risk Assessment consulting services provided during the previous month.

    iii.   Contractor shall provide the State with attestations from impacted entities of Meaningful Use consulting/ or Interoperability Rule Education services for any Healthcare Organizations receiving more than 3 hours of consulting in a month. For Healthcare Organizations receiving less than 3 hours in any month, Contractor will provide a list and hours spent per Healthcare Organization which will serve as the contractor's attestation and will be accepted in lieu of the HCO attestation. Payment is contingent upon delivery of attestations from impacted entities and delivery of monthly invoices detailing total Contractor labor hours per Healthcare Organization.

13. Public Health

Contractor will continue to execute on ongoing activities that not only align with national guidance from the ONC but with guidance from the CDC which promotes new targets for data system interoperability in the CDC Data Modernization Initiative. Those activities aim to help facilitate data collection and availability, including aggregation of Immunization and Laboratory data, for the Vermont Immunization Registry, the VDH Epidemiology team and others in the State addressing the COVID-19 Pandemic. The Contractor will work in partnership with VDH and the Vermont Agency of Digital Services, and HCOs, Pharmacies, Commercial Laboratories, as well as any other organizations identified by the VDH to support and supplement their data collection and reporting needs, including implementing interfaces to electronically capture needed information. The data from each interface will be transformed into the FHIR transactional database once live, where it will be available for extraction and analysis.

Contractor shall:
- Connect to national tools being developed to capture and share information about immunization activity.
- Move high volume immunizers like pharmacies from a monthly batch file to daily automated HL7 files to help VDH with the CDC's daily reporting requirements for COVID-19 vaccine administration.
- Automate sharing of statewide testing results and enhance vaccine collection through the VHIE. Additional sites may include long term care facilities and additional commercial labs.
- Continue data sharing to support ongoing surveillance through the VHIE, beyond COVID-19.
- Connect additional VDH registries to the VHIE to make essential data available to providers (e.g., death registry).
- Establish direct feeds of lab results to health care organizations and offer reporting to stakeholders for specialized care needs.
- Connect providers to direct lab feeds across the state to ensure they have the real-time information they need to provide care.

- Leverage the VHIE's connection to EMResource to support the automation of hospital reporting in future emergencies.
- Work to expand the VHIE connection to a national network – eHealth Exchange – to enable Vermont's providers and VDH to access Vermont patient data from care that occurred outside of state borders. This connection will also make health data available to providers outside of Vermont providing care to Vermonters.
- Continue to expand emergency medical service agency, and other provider, use of the provider portal (VITLAccess) to support COVID and public health needs.

Contactor's work under this section shall include the following deliverables:

i. Implement a minimum of twenty-five (25) Interface connections that are prioritized to support Public Health in support of the COVID-19 Pandemic. These interfaces will allow for real time electronic exchange of Laboratory and Immunization data and allow the VDH to meet Federal reporting guidelines for COVID-19 data.

ii. Connect to the national Immunization Gateway to enable data from the Vaccination Administration Management Systems (VAMS) to flow to the VHIE and be used in conjunction with other clinical data to support Public Health reporting in Vermont.

iii. Expand access to statewide health data for up to 15 Emergency Medical Services (EMS) or other providers to support their COVID-19 response efforts through VITLAccess Onboardings, by giving them access to timely clinical data for the patients they are supporting.

iv. Maintain daily operation of the COVID Hospitalization report that reports data on behalf of VT Hospitals to the State Dashboards, and also, eventually, to the HHS Teletracker system for mandated COVID-19 data reporting, until no longer deemed necessary.

v. Create an interface to electronically ingest the Death Registry flat file from the VDH and update the Master Patient Index Tool appropriately for use by multiple VHIE stakeholders.

vi. Other activities as prioritized by the VDH as part of the COVID-19 Immunization and Laboratory reporting needs and defined in the DED process.

14. Deliverables Expectations Document (DED) Process:

14.1 DED Development:

i. Contractor shall provide to State an evaluation of the existing DED catalog and a schedule and plan for delivering updated and new DEDs for all deliverables described in Attachment B of this Contract within fifteen (15) days of Contract execution.

ii. All DEDs shall include deliverable description, definitions, acronyms and abbreviations, timeline for the development and review processes, members of the review and approval team, deliverable requirements and acceptance criteria.

14.2 DED Review and Approval Process:

i. Contractor shall work with State to develop DEDs and then submit to the State for review.

ii. The State shall have ten (10) business days to review and approve the DED, or to provide comments if the DED is not acceptable. During this ten (10) day period, the State may schedule and conduct a joint walkthrough of the DED with Contractor so that Contractor can

make real-time updates based on State feedback. At the conclusion of the walkthrough, the Contractor and State shall confirm that updates to the DED are acceptable to both parties.

iii. If State provides comments to Contractor on or before the end of the ten (10) day period, Contractor shall have no more than ten (10) business days to incorporate comments and resubmit the DED to State for electronic approval.

14.3   DED Revision Process:

i. A DED may be reopened for modification (Revised DED) upon mutual agreement of the State Program Manager and Contractor to address minor changes such as correcting and/or clarifying criteria. It is understood that generally a DED may not be modified more than once per Contract year. Until a Revised DED has been approved by the State, existing DED criteria shall continue to apply.

ii. The State shall have five (5) business days upon receipt of Revised DED to confirm that comments provided to the Contractor have been addressed and approve or reject the DED.

15. Changes to Scope of Work:

15.1   Contractor and State acknowledge that any changes to the scope of work described in this Attachment A must follow the DVHA Portfolio Change Control Plan, a copy of which is posted on the Department of Vermont Health Access website (the "CCP").

15.2   During the Contract term Contractor and State may identify additional tasks to be performed by Contractor within the general scope of its work, the specific requirements of which shall be determined by mutual agreement. Contractor and State agree that these additional items of work shall be construed as "Specification Orders" within the meaning of the CCP and shall be processed accordingly. It is further understood and agreed that the contract maximum amount includes an amount specified in Attachment B specifically reserved and allocated to pay for the additional items of work described in this section. If and when this reserved amount is exhausted, no additional work may be requested, ordered, or approved except in accordance with the CCP.

EXHIBIT 1 TO ATTACHMENT A

VITLAccess Terms and Conditions for State Health Care Providers

Exhibit 1 sets forth the terms under which Contractor shall provide access to Medicaid beneficiary records in the Vermont Health Information Exchange ("VHIE") to DVHA personnel who are "health care providers" under Vermont law, in order to facilitate the State's provision of case management and care coordination activities for Vermont Medicaid beneficiaries, and by VDH personnel for authorized public health purposes

Section 1 - Definitions

As used in this Exhibit 1, the following terms shall have the definitions as described below:

(a) "Authorized User" means an individual authorized by Contractor and a Participating Health Care Organization to use the VHIE to access Data for a Permitted Use. State's health care provider staff are   Authorized Users.

(b) "Data" means the patient record data elements including all written or electronic patient information   relating to patient identity, medical history, diagnosis, treatment, tests or prognosis which is accessible   to a Participating Health Care Organization in the VHIE. Such information may include, but not be   limited to, admission, discharge, transfer, medical, prescription, billing, and/or other data.

(c) "Data Services" means access to Data for Vermont Medicaid beneficiaries through VITLAccess, which   is a secure internet portal allowing State health care provider staff to view patient data from other health care organizations through the VHIE.

(d) "Data Subcontractor" means the vendor(s) with whom Contractor has subcontracted as its Business   Associate(s) pursuant to the terms of this Contract to assist it in meeting its obligations under this Exhibit 1 and as the operator of the VHIE. Contractor shall obtain adequate written assurances from any Data Subcontractor that it will comply with all applicable laws, including but not limited to the HIPAA Privacy and Security Regulations.

(e) "Documentation" means user and administrator manuals and guides for the scope and use of Data Services that are available from Contractor, including on its website (www.vitl.net) and include Policies   and Procedures, as such terms are defined in Section 3.

(f) "HIPAA Privacy and Security Regulations" means the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164 and the Security Standards for the Protection of   Electronic Protected Health Information at 45 C.F.R. Parts 160 and 164.

(g) "Participating Health Care Organization" means an individual hospital, medical practice, physician   practice, home health care agency or other health care provider who has entered into a VHIE Services   Agreement with Contractor or a substantially similar agreement, agreeing to participate in the exchange   of Data on the VHIE.

(h) "Patient" means an individual who has received or will receive treatment or health care services from a   Participating Health Care Organization.

(i) "Permitted Use" means the use of any Data available on the VHIE only for the purposes of treatment,   payment or health care operations by the State's health care provider staff or a Participating Health Care   Organization as permitted under State and federal law and the Policies and Procedures of VITL. "Permitted Use" includes query-based access by other national exchanges for permitted purposes as defined by the Restatement II of the Data Use and Reciprocal Support Agreement ("DURSA"), April 13, 2019. "Permitted Use" may include the use of Data available on the VHIE for public health purposes with public health authorities to the extent that access is authorized under applicable law.

(j) "Project Charter" means a document agreed to by Contractor and the State which includes, among other   things, a plan of implementation for Data Services.

(k) "Protected Health Information" and the abbreviation "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to the individually identifiable health information created or received by a Business Associate from or on behalf of a Participating Health Care Organization. Such term shall also include Electronic Protected Health Information.

(l) "Quality Review" shall mean the review of Data for the purpose of disease management, utilization review or quality assessment or improvement. Utilization review includes precertification and preauthorization of services, and concurrent and retrospective review of services. It does not include post-payment audits of services rendered.

(m) "Treatment" shall have the definition assigned to it by the HIPAA Privacy and Security Regulations at 45 C.F.R. § 164.501, namely the provision, coordination, or management of health care and related   services by one or more health care providers, including but not limited to, services for the diagnosis, prevention, cure or relief of a health care injury or disease. It may also include the coordination or management of health care by a health care provider with a third party, consultation between health care providers relating to a patient, or the referral of a patient for health care from one health care provider to another.

(n) "Vermont Health Information Exchange" or "VHIE" means the Vermont Health Information Exchange, an integrated electronic health information infrastructure for the sharing of PHI and Data among Participating Health Care Organizations and the State's health care provider staff.

Section 2 – Contractor's Role and the Vermont Health Information Exchange

(a) Contractor and the State shall cooperate to develop the Project Charter and perform the implementation   activities described therein as soon as reasonably practicable following the effectiveness of this Exhibit 1.

(b) Contractor shall manage and administer the VHIE and provide Data Services to the State as described in this Exhibit 1 and in compliance with applicable laws and regulations. Contractor may delegate responsibilities related to its role to one or more Data Subcontractors so long as Contractor and such Data   Subcontractors are Business Associates.

(c) Contractor will make the VHIE available only for a Permitted Use as defined in Section 1 (i).

(d) Contractor will make commercially reasonable efforts to make the VHIE available to the State twenty- four (24) hours a day, seven (7) days a week; however, the VHIE's availability may be suspended for maintenance or unscheduled interruptions. Contractor will use commercially reasonable efforts to provide   the State with reasonable advance notice of any suspension or interruption of the VHIE's availability and   to restore the VHIE's availability.

Section 3 – Policies and Procedures of the Vermont Health Information Exchange

Contractor will establish policies and procedures, including but not limited to policies covering patient   consent and use of Data (respectively, "Policies" and "Procedures") that will govern Contractor's and Participating Health Care Organizations' activity on the VHIE, and these Policies and Procedures are available at Contractor's website (www.vitl.net). These Policies and Procedures govern use of the VHIE   and Data provided to and available on the VHIE. The State's use of the VHIE constitutes acceptance of those Policies and Procedures. No Policy or Procedure shall allow any use of Data for any purpose other than a Permitted Use. Contractor may provide access to Data in the VHIE for the services related to Permitted Use, and may provide access to such Data for Quality Review consistent with its Policy on Secondary Use of PHI on the VHIE which provides for use by Accountable Care Organizations or Health Plans for Quality Review under a Data Use Agreement.

(a) Changes to Policies and Procedures. Contractor may change or amend the Policies and Procedures   from time to time at its discretion and will post notice of final changes at Contractor's website (www.vitl.net). Contractor shall provide the State and Participating Health Care Organizations notice of   such changes to Policies and Procedures by electronic mail or other electronic notification such as by posting   such notice on its website. Any changes will be effective sixty (60) days following adoption by Contractor, unless Contractor determines that an earlier effective date is required to address a legal requirement, a   concern relating to the privacy or security of Data or an emergency situation. Except as expressly provided herein, Participating Health Care Organizations will have no ownership or other property rights in the Policies and Procedures or other materials or services provided by Contractor.

Section 4 – State's Role and the Vermont Health Information Exchange

(a) The State, solely through its health care provider staff, may access and receive Data in accordance with the terms of this Exhibit 1 and the Documentation incorporated herein.

(b) The State agrees that it shall be responsible for all costs charged by its vendors, internet service providers   or telecommunications providers in connection with connecting its computer network to

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the VHIE.

Section 5 – Ownership of Exchange Equipment and Rights

(a) Any equipment or communication lines supplied by the State shall remain the sole property of the State. Equipment, software, intellectual property, or communication lines owned by Contractor shall remain the   sole property of Contractor.

(b) Contractor grants to the State a non-exclusive, nontransferable, non-sublicensable license to access and   use the Data and to use the software comprising the VHIE system solely for Permitted Uses and subject to   the other limitations described in this Exhibit 1. Neither party, nor any of their respective employees, agents,   affiliates or subcontractors, will acquire any rights to any intellectual property, software, information or   other materials owned by the other party (or any employee, agent, affiliate or subcontractor thereof) prior   to the effectiveness of this Exhibit 1 unless expressly agreed otherwise.

Section 6 – Medical Judgment Required

The State acknowledges that neither Contractor nor the VHIE provides Treatment or makes clinical, medical, or other similar decisions, and that participation in the VHIE is not a substitute for competent,   properly trained and knowledgeable staff who bring professional judgment and analysis to the Data provided   through the VHIE. Each party further acknowledges that, as between Contractor and its Data Subcontractors on the one hand and the State and its subcontractors on the other, the State is solely responsible for verifying the accuracy of all Data and determining the data necessary for its health care

provider staff to make Treatment decisions, as well as complying with all laws, regulations, licensing   requirements applicable to its delivery of health care services.

Section 7 – Disclaimer of Warranties

EACH PARTY ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY PROVIDED IN THIS EXHIBIT OR THE CONTRACT TO WHICH IT RELATES, NO WARRANTIES HAVE BEEN MADE BY ANY OTHER PARTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE DATA SERVICES DESCRIBED AND DELIVERED HEREUNDER OR WITH RESPECT TO CLINICAL DATA, INFORMATION, OR THE VHIE.

Section 8 – No Fees

Data Services shall be provided by Contractor to the State under this Exhibit 1 at no cost.

Section 9 – Single Sign On Access

(a) VITL offers Single Sign On Access and the State seeks to establish Single Sign On functionality between its electronic health record network and the VHIE in order to facilitate the treatment of patients. VITL is willing to provide Single Sign On Access to the State during the term of the Agreement, so long as the State agrees to meet certain requirements (1) for training

its end users, (2) for monitoring all VHIE access by its end users consistent with VITL's Policies and Procedures and (3) for auditing use.

(b)   VITL agrees to provide the State Single Sign On access to the VHIE during the term of the Agreement. The State agrees that Single Sign On access to the VHIE shall only be granted to end users ("Single Sign On End Users") for purposes related to the diagnosis and treatment, payment for treatment or necessary health care operations related to that treatment of the State's patients.

(c) The State agrees that it will provide orientation and regular training to each of its designated Single Sign On End Users who may use the Single Sign On functionality on the terms and conditions which apply to the State's access to Protected Health Information on the VHIE which includes the following:

(1)   that access to the Protected Health Information is restricted to individuals for whom the Single Sign On End User is, or will be, involved in their diagnosis and treatment, payment for this treatment or necessary health care operations related to such treatment;

(2)   that access to the VHIE is not allowed for:

(i)   the Single Sign On End User to access his or her own medical record or the medical records of family members;
(ii)   education purposes; or
(iii)   research purposes.

(3)   the confidentiality requirements for Protected Health Information accessed from the VHIE under the VHIE Patient Consent Policy and all other VHIE Policies and Procedures, as well as under state and federal law, including the HIPAA Privacy and Security Regulations;

(4)   privacy and security compliance procedures, including safeguarding passwords and related measures; and

(5)   that all Single Sign On End User access is subject to periodic compliance audits at any time conducted by the State and/or VITL.

The State agrees to provide a record of orientation and training of any VHIE Single Sign On end user upon request by VITL.

(d) The State is responsible for the compliance of its designated Single Sign On End Users

with the VHIE Policies and Procedures and federal and state privacy and security law, notwithstanding its fulfilling the orientation and training requirements as set forth in paragraph (c) of this Section.

(e) The State agrees to regularly monitor and audit the use and appropriateness of its VHIE Single Sign On End Users' access to the VHIE and agrees to discipline, including to terminate the access of, any VHIE Single Sign On End User in the event that it determines that such user has violated any State or VHIE Policies or Procedures related to VHIE access, and to promptly, and within forty-eight (48) hours, notify VITL of the termination and circumstances involved. The State agrees to fully cooperate with and assist VITL in investigating any potential breach activity and in making all notifications and taking steps to mitigate any harm.

(f) Either VITL or the State may terminate the State's Single Sign On Access contemplated by this Section: (i) without cause upon no less than 90 days' prior written notice of termination to the other party; or (ii) for cause at any time for material failure of the other party to comply with the terms and conditions hereof, if such material failure is not corrected within a period of thirty (30) days after receipt of written notice from the other party specifying such failure or, in the event that such material failure cannot be cured within such period, commence and pursue diligent efforts to cure within such time period.

ATTACHMENT B – PAYMENT PROVISIONS

The maximum dollar amount payable under this Contract is not intended as any form of a guaranteed amount. Contractor shall be paid for services actually delivered or performed as specified in Attachment A, up to the maximum allowable amount specified on page one of this Contract.

1. Prior to commencement of work and release of any payments, Contractor shall submit to the State:
   a. a certificate of insurance consistent with the requirements set forth in Attachment C, Section 8 (Insurance), and with any additional requirements for insurance as may be set forth elsewhere in this Contract; and
   b. a current IRS Form W-9 (signed within the last six months).

2. Payment terms are **Net 15** days from the date State receives an error-free invoice with all necessary and complete supporting documentation.

3. Contractor shall complete all DDI work by September 30th, 2021, and submit for payment by October 11, 2021. If Contractor fails to complete the work by September 30th, 2021, the payment will not be authorized.

4. Contractor shall submit detailed invoices, which shall include an invoice number, date of submission, dates of service, the Contract number, descriptions of services and deliverables performed, evidence of deliverable approval by the State, total amount billed broken down into work packages by project and shall be signed by an authorized representative of Contractor. Contractor shall not submit an invoice for any deliverable under this Contract until it has received written notice of acceptance of the deliverable by the State in the form of a DAD.

5. If a deliverable is not accepted by the State, which shall not be unreasonably refused, the State shall not release payment. Contractor has ten (10) business days to acknowledge the rejection of the deliverable and present a timeline for revision to resubmit the deliverable. If the schedule is not adhered to, then payment is foregone.

6. Contractor shall submit invoices to the State in accordance with the schedule set forth in this Attachment B. Unless a more particular schedule is provided herein, invoices shall be submitted not more frequently than monthly.

7. Invoices and any required reports shall be submitted to the State electronically at the following address: AHS.DVHAInvoices@vermont.gov

8. EXPENSES: The fee for services shall be inclusive of Contractor expenses.

9. Contractor shall not invoice for travel time.

10. The payment schedule for delivered products, or rates for services performed, and any additional reimbursements, are as follows:

Table 1.1: Payment Provisions – Operations

Deliverable/Metric Description	OBC Metric Baseline	Base Amount per Deliverable	Min Amount per Deliverable	Max Amount per Deliverable	Actual OBC Metric	CY'21 FRQ	Estimated Payable Amount	Min Payable Amount	Max Payable Amount
Bonus Factor	20%		Max FHIR Int	70					
Section 3. Operations									
3.8.ii. Monthly operational reports		$10,000	$10,000	$10,000		12	$120,000	$120,000	$120,000
3.8.i .Medicaid Services Reports - Blueprint		$50,000	$50,000	$50,000		1	$50,000	$50,000	$50,000
3.8.i. Medicaid Services Reports General		$100,000	$100,000	$100,000		0	$0	$0	$0
3.8.ii.b. FHIR DB - Operations		$38,050	$38,050	$38,050		12	$456,600	$456,600	$456,600
3.8.ii.b. MPI - Operations		$19,500	$19,500	$19,500		12	$234,000	$234,000	$234,000
3.v8.ii.e. MPI - Medicaid Matching Rate (min 90%)	90%	$3,000	$2,400	$3,600	90%	12	$36,000	$28,800	$43,200
3.8.ii.f MPI - Total Records Reduction Rate	5%	$3,000	$2,400	$3,600	5%	12	$36,000	$28,800	$43,200
3.8.ii.b. Rhapsody - Operations		$28,750	$28,750	$28,750		12	$345,000	$345,000	$345,000
3.8.ii.c Interfaces - Maintenance		$10,000	$10,000	$10,000		12	$120,000	$120,000	$120,000
3.8.ii.r. Interfaces - Volume of ADT messages	0%	$1,000	$800	$1,200	0%	12	$12,000	$9,600	$14,400
3.8.ii.b.VHIE Hosting		$83,307.25	$83,307.25	$83,307 .25		12	$999,687	$999,687	$999,687
3.8.ii.m. TS - # of data concepts applied	14	$2,000	$1,600	$2,400	14	12	$24,000	$19,200	$28,800
3.8.ii.n. TS - % of codes mapped for the data concepts	90%	$2,000	$1,600	$2,400	90%	12	$24,000	$19,200	$28,800
3.8.ii.o. TS - % of messages with mapped/inserted codes	90%	$2,000	$1,600	$2,400	90%	12	$24,000	$19,200	$28,800
3.4. Consent Management - Education		$5,416.67	$5,416.67	$5,416.67		12	$65,000	$65,000	$65,000
Section 3. Operations							**$2,546,287**	**$2,515,087**	**$ 2,577,487**
Sec 4. Security									
4.3.NIST-CSF compliant reports		$35,824	$35,824	$35,824		12	$429,891	$429,891	$429,891
Grand Total Maintenance & Operations							**$2,976,178**	**$2,944,978**	**$3,007,378**

Table 1.2: Payment Provisions – DDI

Project	Deliverable Detail	Payment Cycle	Amount Per Deliverable	Maximum Payable Amount
5. VHIE Enhancement : Data Access	5.3.i. Expand access to patient data through the onboarding of new entities on VITLAccess, SSO, Cross Community Access	Upon completion	$7,500.00 each for a maximum of $37,500.00	$537,500.00
	5.3.ii. Implement data access expansion in the form of direct feeds of transcribed reports and laboratory and radiology data to EHR systems in accordance with the prioritized implementation list	Upon completion	$10,000.00 each to a maximum of $200,000.00	
	5.3.iii. Implement data access remediation.	Upon completion	$7,500.00 each to a maximum of $300,000	
6. Consent Management	6.i. Develop policies, procedures, and documentation to support access to clinically sensitive data.	Upon completion	$100,000.00	$210,000.00
	6.ii.a. Preparation to pilot policies and procedures for managing clinically sensitive data with one or more health care organization. Contractor will provide information about the selected pilot site(s) and associated pilot implementation plans, which shall include, but not be limited to, consent management workflows to enable patient education and consent decision making	Upon completion	$27,500	
	6.ii.b. Pilot site provider, staff, and patient education strategies and materials		$7,500	
	6.ii.c. Pilot evaluation strategies		$10,000	
	6.iii. Develop an education program to introduce the substance use disorder treatment community and mental health treatment community to the VHIE and		$65,000	

Project	Deliverable Detail	Payment Cycle	Amount Per Deliverable	Maximum Payable Amount
	build awareness of plans for 2022 piloting and rollout of sensitive data sharing policies and procedures			
7. Connecting EMS and Other Emergency Services to the VHIE	7.i. Project management and coordination of stakeholders to encourage and support incorporation of VITLAccess in emergency response plans and trainings	Monthly	$4,000.00/month for four months Up to a maximum of $16,000.00	$226,000.00
	7.ii. Agenda and materials for a live training for emergency healthcare response /preparedness organizations to introduce organizations and staff to how to use VITLAcess	Upon completion	$8,000.00	
	7.iii. Attestation that live training has occurred, listing date and participating organizations and number of individuals (pdf)	Upon completion	$2,000.00	
	7.iv. On-demand training or support resources to help VITLAccess users learn how to use portal, including resources that will be accessible in emergency situations where time to train is limited and quick, task-oriented how-to's are needed	Upon completion	$75,000.00	
	7.v. Contractor shall implement and test the connection from the Provider Portal to the eHealth Exchange Hub. This testing will involve working with eHealth exchange to validate our initiator and responder configurations prior to their providing approval to move to production.	Upon completion	$50,000.00	
	7.vi. Contractor shall create a Cutover planning document with all affected systems for the eHealth Exchange solution to move to Production that	Upon completion	$50,000.00	

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Project	Deliverable Detail	Payment Cycle	Amount Per Deliverable	Maximum Payable Amount
	describes the plan and timing for Go Live.			
	7.vii. Contractor shall provide proof that the eHealth Exchange Connection is live in Production and is functioning as expected. Provide attestation affirming successful queries to the network in Production.	Upon completion	$25,000.00	
8. Architectural Quality Process - VITL Data Governance Implementation	8.i. Complete and deliver documentation of all relevant policies and procedures supporting data governance identified in chapter 8 of the VITL Data Governance Implementation Charter created in CY20 for all existing data types and new data types planned in the CY 21 contract.	Upon completion	$40,000.00	$100,000.00
	8.ii. Develop and deliver documentation of a data dictionary that consists of a centralized repository of information about VHIE data such as meaning, relationships to other data, origin, usage, and format.	Upon completion	$30,000.00	
	8.iii. Complete and deliver documentation of a Data Governance Policy that is approved by the VITL Board of Directors.	Upon completion	$15,000.00	
	8.iv. Create and deliver documentation of a stakeholder engagement plan to Educate select stakeholders, including but not limited to the HIE Steering Committee, VHIE data contributors, and VHIE data users, on VITL's Data Governance Policy.	Upon completion	$15,000.00	
9. VHIE Enhancement : Data Extraction	9.1.i. Tactical Interface Plan	Upon Completion	$105,000.00	$1,293,000.00
	9.2.i. Develop VHIE Procedures for FHIR API data	Upon Completion	$30,000.00	

Project	Deliverable Detail	Payment Cycle	Amount Per Deliverable	Maximum Payable Amount
and Aggregation (Connectivity)	Contributors			
	9.2.ii. Implement and Test FHIR API for data contributors	Upon Completion	$30,000.00	
	9.2.iii. Update Baseline Connectivity Evaluation Scoring to accommodate FHIR standards.	Upon Completion	$30,000.00	
	9.2.iv. Update the Interface Prioritization Matrix via the Subcommittee for the HIESC.	Upon Completion	$10,000.00	
	9.2.v. FHIR R3 to R4 Migration Plan for Claims data	Upon Completion	$20,000.00	
	9.2.vi. FHIR R3 to R4 Migration implemented for claims data	Upon Completion	$120,000.00	
	9.2.vii. FHIR R3 to R4 migration tested for claims data	Upon completion	$120,000.00	
	9.2.viii. Migrate HL7 HCO Connections from Health Catalyst to the VHIE first	Upon Completion	$3,000.00 each migration to FHIR DB, up to a maximum of $90,000.00	
	9.2.ix. FHIR data contribution pilot	Upon Completion	$25,000.00	
	9.3.i. Create a plan for five (5) FHIR interface connections starting in Q4	Upon Completion	$50,000.00	
	9.3.ii. Implement a minimum of thirty (30) interfaces that will be mapped into the FHIR DB	Upon Completion	$6000.00 per interface up to a maximum of $302,000.00	
	9.3.iii. Provide Connectivity Dashboard	Due by the 10th day after the end of each month beginning January 2021	$20,000.00 each, up to a maximum of $180,000.00	
	9.4.i. Update Connectivity Criteria for Physical Health, Mental Health and Behavioral Health	Approved by the HIE Steering Committee by Oct 10	$15,000.00	
	9.4.ii. Expand Connectivity Criteria to include Medicaid claims	Approved by the HIE Steering	$26,000.00	

Project	Deliverable Detail	Payment Cycle	Amount Per Deliverable	Maximum Payable Amount
		Committee by Oct 10		
	9.4.iii. Collaborate with VRHA to establish updated data quality protocols	Upon completion	$20,000.00	
	9.5.i. Develop VHIE procedures for onboarding HCO users that wish to access VHIE data using FHIR API	Upon completion	$20,000.00	
	9.5.ii. Develop VHIE Procedures for authenticating and providing access to USCDI data to Patients	Upon completion	$20,000.00	
	9.5.iii. Implement and Test FHIR API for data contribution	Upon completion	$25,000.00	
	9.5.iv. Implement and Test FHIR API for Patients	Upon completion	$25,000.00	
	9.5.v. Go live with FHIR API for HCO Data Access	Upon completion	$15,000.00	
	9.5.vi. Go live with FHIR API for Patient Data Access	Upon completion	$15,000.00	
10. VHIE Enhancement: Data Quality Services	10.i. Monthly report of accomplishments and plans with a summary of activities.	Monthly (January – September)	$33,111.11 up to a maximum of $298,0000.00	$300,000.00
	10.ii Operational support for Data Quality Services implementation	Upon completion	$2,000.00	
11. VHIE Enhancement: Collaborative Services/New Data Platform	**11.1. ROADMAP**			
	11.1.i. Create a platform roadmap & plan for CY2021 and beyond	Upon Completion	$100,000.00	$190,000.00
	11.1.ii. Deliver Platform Status Reports twice a month	2 per month, paid on a monthly basis	$10,000.00 per month, up to $90,000.00	
	11.2. DATABASES			
	11.2.i. Integration of Terminology Services into FHIR Database	Upon Completion	$30,000.00	$1,310,000.00
	11.2.ii. Integration of MPI into FHIR DB	Upon Completion	$50,000.00	
	11.2.iii. FHIR DB Cutover Plan	Upon	$45,000.00	

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Project	Deliverable Detail	Payment Cycle	Amount Per Deliverable	Maximum Payable Amount
	Document	Completion		
	11.2.iv. Provide new Relational DB Data Model document	Upon Completion	$75,000.00	
	11.2.v. Relational DB implementation complete	Upon Completion	$75,000.00	
	11.2.vi. Relational DB testing complete	Upon Completion	$75,000.00	
	11.2.vii. Provide Relational database Cutover Planning Document	Upon Completion	$50,000.00	
	11.2.viii. Provide Reports Evaluation and Plan Document	Upon Completion	$50,000.00	
	11.2.ix. Rewrite needed reports for go live against FHIR or Relational database.	Upon Completion	$30,000.00	
	11.2.x. Provide HIE Database Evaluation Document	Upon Completion	$50,000.00	
	11.2.xi. Provide HIE Database Decommissioning Plan	Upon Completion	$50,000.00	
	11.2.xii. Medicaid Claims Data requirements developed	Upon Completion	$50,000.00	
	11.2.xiii. SDoH Data requirements developed	Upon Completion	$70,000.00	
	11.2.xiv. Transactional FHIR database Go Live	Upon Completion	$75,000.00	
	11.2.xv. Relational database is live	Upon Completion	$40,000.00	
	11.2.xvi. Develop Consent Test Plans for provider Portal (Medicasoft Platform)	Upon Completion	$40,000.00	
	11.2.xvii. Implement and Test General Consent in Provider Portal (Medicasoft Platform)	Upon Completion	$40,000.00	
	11.2.xviii. Implement and test Part 2 Consent for new Federal rules	Upon Completion	$75,000.00	
	11.2.xix. COVID-19 report on Relational database go live	Upon Completion	$70,000.00	
	11.2.xx. Relational database Extract/View Ready for Client testing	Upon Completion	$50,000.00	
	11.2.xxi. Ingest and test Medicaid Claims data in FHIR database	Upon Completion	$80,000.00	
	11.2.xxii. 3 SDoH interfaces to	Upon	$30,000.00 each up	

Project	Deliverable Detail	Payment Cycle	Amount Per Deliverable	Maximum Payable Amount
	enrich data with Master Patient Index	Completion	to a maximum of $90,000.00	
	11.2.xxiii. Decommission of initial group of legacy databases.	Upon Completion	$50,000.00	
	11.3. PROVIDER PORTAL, SECURE MESSAGING, RESULTS DELIVERY			
	11.3.i. Direct Secure Messaging Implementation and testing complete.	Upon Completion	$50,000.00	
	11.3.ii. Direct Secure Messaging Cutover Plan	Upon Completion	$30,000.00	
	11.3.iii. VHIE Policies and Procedures updated for Direct Secure Messaging	Upon Completion	$30,000.00	
	11.3.iv. Provider Portal Selection and Contracting	Upon Completion	$30,000.00	
	11.3.v. MPI integration into Provider Portal	Upon Completion	$30,000.00	
	11.3.vi. Implement and test Provider Portal	Upon Completion	$100,000.00	
	11.3.vii. VHIE Policies and Procedures updated for the Provider Portal	Upon Completion	$50,000.00	
	11.3.viii. Set up and Configure HCO Clients in the Provider Portal	Upon Completion	$30,000.00	$735,000.00
	11.3.ix. Provider Portal Cutover plan	Upon Completion	$50,000.00	
	11.3.x. Results Delivery Requirements documentation	Upon Completion	$50,000.00	
	11.3.xi. Select and Contract for Results Delivery solution	Upon Completion	$30,000.00	
	11.3.xii. Results Delivery Test Plan	Upon Completion	$50,000.00	
	11.3.xiii. Results Delivery Project Plan	Upon Completion	$30,000.00	
	11.3.xiv. Direct Secure Messaging Go Live	Upon Completion	$50,000.00	
	11.3.xv. Provider Portal Go Live	Upon Completion	$75,000.00	
	11.3.xvi. Pilot Clients migrated to provider portal	Upon Completion	$50,000.00	

Project	Deliverable Detail	Payment Cycle	Amount Per Deliverable	Maximum Payable Amount
12. Client Services Meaningful Use and Security Risk Assessment Consulting:	i. Provide the State with a list and attestations from impacted entities of Meaningful Use and Security Risk Assessment consulting services provided during the previous month. Payment is contingent upon: ii. Delivery of attestations from impacted entities (3+ hours), or attestation from VITL in lieu of practice attestation (< 3 Hours) and; iii. Delivery of list, attestations and monthly invoices detailing total VITL labor hours per site.	Monthly on the 10th day of each month	$10,416.67/month Plus $125/hour labor rate Up to a maximum of $150,000.00	$150,000.00
13. Public Health	13.i Implement a minimum of twenty-five (25) Interface connections that are prioritized to support Public Health in support of the COVID-19 Pandemic. Provide attestation from impacted HCO affirming successful Interface implementation.	Upon Completion	$7,661.29.00 each, up to a maximum of $237,500.00	$600,000.00
	13.ii Connection to IZ gateway to support COVID-19 reporting	Upon Completion	$50,000.00	
	13.iii Up to 15 VITLAccess Onboardings for emergency medical service providers and others to support COVID response	Upon Completion	$7500.00 each, up to a maximum of $112,500.00	
	13. iv Daily COVID Hospitalization Reporting	Monthly	$13,333.33 per month, up to a maximum of $120,000.00	
	13.v Implement the Death Registry Interface	Upon Completion	$50,000.00	
	13.vi Public Health Activities to support COVID-19 response to be defined by DED Process	Upon Completion	$30,000.00	
Task Order	Scope to be defined through DEDs to allow agility in	Upon Completion	Up to $400,000.00	$400,000.00

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DEPARTMENT OF VERMONT HEALTH ACCESS   **PAGE 44 OF 83**
VERMONT INFORMATION TECHNOLOGY LEADERS, INC.

Project	Deliverable Detail	Payment Cycle	Amount Per Deliverable	Maximum Payable Amount
	meeting already known public health, OBC, and Cures Act requirements that need further clarity			
Total Payable Amount				$6,051,500.00

ATTACHMENT C: STANDARD STATE - PROVISIONS FOR CONTRACTS AND GRANTS REVISED DECEMBER 15, 2017 –

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 this 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.

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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.

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 if 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.

Notwithstanding any contrary language anywhere, in no event shall the terms of this Agreement or any document furnished by the Party in connection with its performance under this Agreement obligate the State to (1) defend or indemnify the Party or any third party, or (2) otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or other costs of the Party or any third party.

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 this 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 this Agreement, 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.

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12. 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 the United States, except with the express written permission of the State.

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 this 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 this 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 12 ("Location of State Data"); 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 30 ("State Facilities"); and Section 32.A ("Certification Regarding Use of State Funds").

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

24. 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.

25. 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.

26. 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.

27. Termination:
   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. **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.

28. 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.

29. No Implied Waiver of Remedies: Either 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.

30. 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.

31. Requirements Pertaining Only to Federal Grants and Subrecipient Agreements: If this Agreement is a grant that is funded in whole or in part by Federal funds:

    A. **Requirement to Have a Single Audit:** 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 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 accordance with 2 CFR 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.

32. Requirements Pertaining Only to State-Funded Grants:

    A. Certification Regarding Use of State Funds: If 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.

    B. Good Standing Certification (Act 154 of 2016): If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify, and (ii) that it will comply with the requirements stated therein.

(End of Standard Provisions)

ATTACHMENT D

INFORMATION TECHNOLOGY PROFESSIONAL SERVICES
TERMS AND CONDITIONS (rev. 3/21/19)

1. OWNERSHIP AND LICENSE IN DELIVERABLES

1.1   Contractor Intellectual Property. Contractor shall retain all right, title and interest in and to any work, ideas, inventions, discoveries, tools, methodology, computer programs, processes and improvements and any other intellectual property, tangible or intangible, that has been created by Contractor prior to entering into this Contract ("Contractor Intellectual Property"). Should the State require a license for the use of Contractor Intellectual Property in connection with the development or use of the items that Contractor is required to deliver to the State under this Contract, including Work Product ("Deliverables"), the Contractor shall grant the State a royalty-free license for such development and use. For the avoidance of doubt, Work Product shall not be deemed to include Contractor Intellectual Property, provided the State shall be granted an irrevocable, perpetual, non-exclusive royalty-free license to use any such Contractor Intellectual Property that is incorporated into Work Product.

1.2   State Intellectual Property. The State shall retain all right, title and interest in and to (i) all content and all property, data and information furnished by or on behalf of the State or any agency, commission or board thereof, and to all information that is created under this Contract, including, but not limited to, all data that is generated under this Contract as a result of the use by Contractor, the State or any third party of any technology systems or knowledge bases that are developed for the State and used by Contractor hereunder, and all other rights, tangible or intangible; and (ii) all State trademarks, trade names, logos and other State identifiers, Internet uniform resource locators, State user name or names, Internet addresses and e-mail addresses obtained or developed pursuant to this Contract (collectively, "State Intellectual Property").

Contractor may not use State Intellectual Property for any purpose other than as specified in this Contract. Upon expiration or termination of this Contract, Contractor shall return or destroy all State Intellectual Property and all copies thereof, and Contractor shall have no further right or license to such State Intellectual Property.

Contractor acquires no rights or licenses, including, without limitation, intellectual property rights or licenses, to use State Intellectual Property for its own purposes. In no event shall the Contractor claim any security interest in State Intellectual Property.

1.3   Work Product. All Work Product shall belong exclusively to the State, with the State having the sole and exclusive right to apply for, obtain, register, hold and renew, in its own name and/or for its own benefit, all patents and copyrights, and all applications and registrations, renewals and continuations thereof and/or any and all other appropriate protection. To the extent exclusive title and/or complete and exclusive ownership rights in and to any Work Product may not originally vest in the State by operation of law or otherwise as contemplated hereunder, Contractor shall immediately upon request, unconditionally and irrevocably assign, transfer and convey to the State all right, title and interest therein.

"Work Product" means any tangible or intangible ideas, inventions, improvements, modifications,

discoveries, development, customization, configuration, methodologies or processes, designs, models, drawings, photographs, reports, formulas, algorithms, patterns, devices, compilations, databases, computer programs, work of authorship, specifications, operating instructions, procedures manuals or other documentation, technique, know-how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection), that is specifically made, conceived, discovered or reduced to practice by Contractor, either solely or jointly with others, pursuant to this Contract. Work Product does not include Contractor Intellectual Property or third party intellectual property.

To the extent delivered under this Contract, upon full payment to Contractor in accordance with Attachment B, and subject to the terms and conditions contained herein, Contractor hereby (i) assigns to State all rights in and to all Deliverables, except to the extent they include any Contractor Intellectual Property; and (ii) grants to State a perpetual, non-exclusive, irrevocable, royalty-free license to use for State's internal business purposes, any Contractor Intellectual Property included in the Deliverables in connection with its use of the Deliverables and, subject to the State's obligations with respect to Confidential Information, authorize others to do the same on the State's behalf. Except for the foregoing license grant, Contractor or its licensors retain all rights in and to all Contractor Intellectual Property.

The Contractor shall not sell or copyright a Deliverable without explicit permission from the State. If the Contractor is operating a system or application on behalf of the State of Vermont, then the Contractor shall not make information entered into the system or application available for uses by any other party than the State of Vermont, without prior authorization by the State. Nothing herein shall entitle the State to pre-existing Contractor Intellectual Property or Contractor Intellectual Property developed outside of this Contract with no assistance from State.

2. CONFIDENTIALITY AND NON-DISCLOSURE; SECURITY BREACH REPORTING

2.1   For purposes of this Contract, confidential information will not include information or material which (a) enters the public domain (other than as a result of a breach of this Contract); (b) was in the receiving party's possession prior to its receipt from the disclosing party; (c) is independently developed by the receiving party without the use of confidential information; (d) is obtained by the receiving party from a third party under no obligation of confidentiality to the disclosing party; or (e) is not exempt from disclosure under applicable State law.

2.2   **Confidentiality of Contractor Information.** The Contractor acknowledges and agrees that this Contract and any and all Contractor information obtained by the State in connection with this Contract are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. The State will not disclose information for which a reasonable claim of exemption can be made pursuant to 1 V.S.A. § 317(c), including, but not limited to, trade secrets, proprietary information or financial information, including any formulae, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to the Contractor, and which gives the Contractor an opportunity to obtain business advantage over competitors who do not know it or use it.

The State shall immediately notify Contractor of any request made under the Access to Public Records Act, or any request or demand by any court, governmental agency or other person asserting a demand or request for Contractor information. Contractor may, in its discretion, seek an appropriate protective

order, or otherwise defend any right it may have to maintain the confidentiality of such information under applicable State law within three business days of the State's receipt of any such request. Contractor agrees that it will not make any claim against the State if the State makes available to the public any information in accordance with the Access to Public Records Act or in response to a binding order from a court or governmental body or agency compelling its production. Contractor shall indemnify the State for any costs or expenses incurred by the State, including, but not limited to, attorneys' fees awarded in accordance with 1 V.S.A. § 320, in connection with any action brought in connection with Contractor's attempts to prevent or unreasonably delay public disclosure of Contractor's information if a final decision of a court of competent jurisdiction determines that the State improperly withheld such information and that the improper withholding was based on Contractor's attempts to prevent public disclosure of Contractor's information.

The State agrees that (a) it will use the Contractor information only as may be necessary in the course of performing duties, receiving services or exercising rights under this Contract; (b) it will provide at a minimum the same care to avoid disclosure or unauthorized use of Contractor information as it provides to protect its own similar confidential and proprietary information; (c) except as required by the Access to Records Act, it will not disclose such information orally or in writing to any third party unless that third party is subject to a written confidentiality agreement that contains restrictions and safeguards at least as restrictive as those contained in this Contract; (d) it will take all reasonable precautions to protect the Contractor's information; and (e) it will not otherwise appropriate such information to its own use or to the use of any other person or entity.

Contractor may affix an appropriate legend to Contractor information that is provided under this Contract to reflect the Contractor's determination that any such information is a trade secret, proprietary information or financial information at time of delivery or disclosure.

2.3   Confidentiality of State Information. In performance of this Contract, and any exhibit or schedule hereunder, the Party acknowledges that certain State Data (as defined below), to which the Contractor may have access may contain individual federal tax information, personal protected health information and other individually identifiable information protected by State or federal law or otherwise exempt from disclosure under the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq ("State Data"). In addition to the provisions of this Section, the Contractor shall comply with the requirements set forth in the State's HIPAA Business Associate Agreement attached hereto as Attachment F. Before receiving or controlling State Data, the Contractor will have an information security policy that protects its systems and processes and media that may contain State Data from internal and external security threats and State Data from unauthorized disclosure, and will have provided a copy of such policy to the State.

State Data shall not be stored, accessed from, or transferred to any location outside the United States. The Contractor agrees that (a) it will use the State Data only as may be necessary in the course of performing duties or exercising rights under this Contract; (b) it will provide at a minimum the same care to avoid disclosure or unauthorized use of State Data as it provides to protect its own similar confidential and proprietary information; (c) it will not publish, reproduce, or otherwise divulge any State Data in whole or in part, in any manner or form orally or in writing to any third party unless it has received written approval from the State and that third party is subject to a written confidentiality agreement that contains restrictions and safeguards at least as restrictive as those contained in this Contract; (d) it will take all reasonable precautions to protect the State's information; and (e) it will not otherwise appropriate

such information to its own use or to the use of any other person or entity. Contractor will take reasonable measures as are necessary to restrict access to State Data in the Contractor's possession to only those employees on its staff who must have the information on a "need to know" basis. The Contractor shall not retain any State Data except to the extent required to perform the services under this Contract.

Contractor shall not access State user accounts or State Data, except in the course of data center operations, response to service or technical issues, as required by the express terms of this Contract, or at State's written request.

Contractor may not share State Data with its parent company or other affiliate without State's express written consent.

The Contractor shall promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for State Data to which the Contractor or any third party hosting service of the Contractor may have access, so that the State may seek an appropriate protective order.

3. **SECURITY OF STATE INFORMATION.**

3.1 Security Standards. To the extent Contractor has access to, processes, handles, collects, transmits, stores or otherwise deals with State Data, the Contractor represents and warrants that it will provide a best practice, secure infrastructure for the VHIE and its supporting infrastructure through continuous process and procedural improvement consistent with a CSF that supports NIST *Special Publication 800-53* (version 4 or higher) and *Federal Information Processing Standards Publication* 200 and designed to (i) ensure the security and confidentiality of State Data; (ii) protect against any anticipated security threats or hazards to the security or integrity of the State Data; and (iii) protect against unauthorized access to or use of State Data. Such measures shall include at a minimum: (1) access controls on information systems, including controls to authenticate and permit access to State Data only to authorized individuals and controls to prevent the Contractor employees from providing State Data to unauthorized individuals who may seek to obtain this information (whether through :fraudulent means or otherwise); (2) industry-standard firewall protection; (3) encryption of electronic State Data while in transit from the Contractor networks to external networks; (4) measures to store in a secure fashion all State Data which shall include secure authentication; (5) dual control procedures, and segregation of duties, where required, under NIST standards, and pre-employment criminal background checks for employees with responsibilities for or access to State Data; (6) measures to ensure that the State Data shall not be inappropriately altered or corrupted without the prior written consent of the State; (7) measures to protect against destruction, loss or damage of State Data due *to* potential environmental hazards, such as fire and water damage; (8) staff training to implement the information security measures; and (9) monitoring of the security of any portions of the Contractor systems that are used in the provision of the services against intrusion on a twenty-four (24) hour a day basis.

3.2   Security Breach Notice and Reporting. The Contractor shall have policies and procedures in

place for the effective management of Security Breaches, as defined below, which shall be made available to the State upon request.

In addition to the requirements set forth in any applicable Business Associate Agreement as may be attached to this Contract, in the event of any actual security breach or reasonable belief of an actual security breach the Contractor either suffers or learns of that either compromises or could compromise State Data (a "Security Breach"), the Contractor shall notify the State within 24 hours of its discovery. Contractor shall immediately determine the nature and extent of the Security Breach, contain the incident by stopping the unauthorized practice, recover records, shut down the system that was breached, revoke access and/or correct weaknesses in physical security. Contractor shall report to the State: (i) the nature of the Security Breach; (ii) the State Data used or disclosed; (iii) who made the unauthorized use or received the unauthorized disclosure; (iv) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and (v) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. The Contractor shall provide such other information, including a written report, as reasonably requested by the State. Contractor shall analyze and document the incident and provide all notices required by applicable law.

In accordance with Section 9 V.S.A. §2435(b)(3), the Contractor shall notify the Office of the Attorney General, or, if applicable, Vermont Department of Financial Regulation ("DFR"), within fourteen (14) business days of the Contractor's discovery of the Security Breach. The notice shall provide a preliminary description of the breach. The foregoing notice requirement shall be included in the subcontracts of any of Contractor's subcontractors, affiliates or agents which may be "data collectors" hereunder.

The Contractor agrees to fully cooperate with the State and assume responsibility at its own expense for the following, to be determined in the sole discretion of the State: (i) notice to affected consumers if the State determines it to be appropriate under the circumstances of any particular Security Breach, in a form recommended by the AGO; and (ii) investigation and remediation associated with a Security Breach, including but not limited to, outside investigation, forensics, counsel, crisis management and credit monitoring, in the sole determination of the State.

The Contractor agrees to comply with all applicable laws, as such laws may be amended from time to time (including, but not limited to, Chapter 62 of Title 9 of the Vermont Statutes and all applicable State and federal laws, rules or regulations) that require notification in the event of unauthorized release of personally-identifiable information or other event requiring notification.

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

4. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

4.1   General Representations and Warranties. The Contractor represents, warrants and covenants that:
(i)   The Contractor has all requisite power and authority to execute, deliver and perform its obligations under this Contract and the execution, delivery and performance of this Contract by the Contractor has been duly authorized by the Contractor.

(ii) There is no pending litigation, arbitrated matter or other dispute to which the Contractor is a party which, if decided unfavorably to the Contractor, would reasonably be expected to have a material adverse effect on the Contractor's ability to fulfill its obligations under this Contract.

(iii) The Contractor will comply with all laws applicable to its performance of the services and otherwise to the Contractor in connection with its obligations under this Contract.

(iv) The Contractor (a) owns, or has the right to use under valid and enforceable agreements, all intellectual property rights reasonably necessary for and related to delivery of the services and provision of the services as set forth in this Contract; (b) shall be responsible for and have full authority to license all proprietary and/or third party software modules, including algorithms and protocols, that Contractor incorporates into its product; and (c) none of the services or other materials or technology provided by the Contractor to the State will infringe upon or misappropriate the intellectual property rights of any third party.

(v) The Contractor has adequate resources to fulfill its obligations under this Contract.

(vi) Neither Contractor nor Contractor's subcontractors has past state or federal violations, convictions or suspensions relating to miscoding of employees in NCCI job codes for purposes of differentiating between independent contractors and employees.

4.2 Contractor's Performance Warranties. Contractor represents and warrants to the State that:

(i) Each and all of the services shall be performed in a timely, diligent, professional and skillful manner, in accordance with the highest professional or technical standards applicable to such services, by qualified persons with the technical skills, training and experience to perform such services in the planned environment.

(ii) Any time software is delivered to the State, whether delivered via electronic media or the internet, no portion of such software or the media upon which it is stored or delivered will have any type of software routine or other element which is designed to facilitate unauthorized access to or intrusion upon; or unrequested disabling or erasure of; or unauthorized interference with the operation of any hardware, software, data or peripheral equipment of or utilized by the State. Without limiting the generality of the foregoing, if the State believes that harmful code may be present in any software delivered hereunder, Contractor will, upon State's request, provide a new or clean install of the software. Notwithstanding the foregoing, Contractor assumes no responsibility for the State's negligence or failure to protect data from viruses, or any unintended modification, destruction or disclosure.

(iii) To the extent Contractor resells commercial hardware or software it purchased from a third party, Contractor will, to the extent it is legally able to do so, pass through any such third party warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will not relieve the Contractor from Contractor's warranty obligations set forth herein.

5. PROFESSIONAL LIABILITY AND CYBER LIABILITY INSURANCE COVERAGE

In addition to the insurance required in Attachment C to this Contract, before commencing work on this Contract and throughout the term of this Contract, Contractor agrees to procure and maintain (a) Technology Professional Liability insurance for any and all services performed under this Contract, with minimum third party coverage of $2,000,000.00 per claim, $4,000,000.00 aggregate. To the extent Contractor has access to, processes, handles, collects, transmits, stores or otherwise deals with State Data, Contractor shall maintain first party Breach Notification Coverage of not less than $2,000,000.00.

Before commencing work on this Contract the Contractor must provide certificates of insurance to show

that the foregoing minimum coverages are in effect.

With respect to the first party Breach Notification Coverage, Contractor shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Contract.

6. **REMEDIES FOR DEFAULT.** In the event either party is in default under this Contract, the non-defaulting party may, at its option, pursue any or all of the remedies available to it under this Contract, including termination for cause, and at law or in equity.

7. **TERMINATION**

7.1 Contractor shall reasonably cooperate with other parties in connection with all services to be delivered under this Contract, including without limitation any successor provider to whom State Data, State Intellectual Property or other State information and materials are to be transferred in connection with termination. Contractor shall assist the State in exporting and extracting any and all State data, in a format usable without the use of the Services and as agreed to by State, at no additional cost. Any transition services requested by State involving additional knowledge transfer and support may be subject to a contract amendment for a fixed fee or at rates to be mutually agreed upon by the parties.

If the State determines in its sole discretion that a documented transition plan is necessary, then no later than sixty (60) days prior to termination, Contractor and the State shall mutually prepare a Transition Plan identifying transition services to be provided.

7.2   Return of Property. Upon termination of this Contract for any reason whatsoever, Contractor shall immediately deliver to State all State Intellectual Property and State Data (including without limitation any Deliverables for which State has made payment in whole or in part), that are in the possession or under the control of Contractor in whatever stage of development and form of recordation such State property is expressed or embodied at that time.

8. **DESTRUCTION OF STATE DATA.** At any time during the term of this Contract within thirty days of (i) the State's written request or (ii) termination or expiration of this Contract for any reason, Contractor shall securely dispose of all copies, whether in written, electronic or other form or media, of State Data according to National Institute of Standards and Technology (NIST) approved methods, and certify in writing to the State that such State Data has been disposed of securely. Further, upon the relocation of State Data, Contractor shall securely dispose of such copies from the former data location according to National Institute of Standards and Technology (NIST) approved methods and certify in writing to the State that such State Data has been disposed of securely. Contractor shall comply with all reasonable directions provided by the State with respect to the disposal of State Data.

9. **IRS TERMS IF FEDERAL TAX INFORMATION WILL BE PROCESSED OR STORED (Per IRS Publication 1075)**

To the extent Contractor's performance under this Contract involves the processing or storage of Federal tax information, then, pursuant to IRS Publication 1075, the following provisions shall apply in addition to any other security standard or requirements set forth in this Contract:

A. PERFORMANCE

In performance of this Contract, the Contractor agrees to comply with and assume responsibility for compliance by its employees with the following requirements:

1. All work will be done under the supervision of the Contractor or the Contractor's employees.
2. The Contractor and the Contractor's employees with access to or who use Federal tax information must meet the background check requirements defined in IRS Publication 1075.
3. Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this Contract. Disclosure to anyone other than an officer or employee of the Contractor will be prohibited.
4. All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
5. The Contractor certifies that the data processed during the performance of this Contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the Contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the Contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
6. Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the State or his or her designee. When this is not possible, the Contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the State or its designee with a statement containing the date of destruction, description of material destroyed, and the method used.
7. All computer systems processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.
8. No work involving Federal tax information furnished under this Contract will be subcontracted without prior written approval of the IRS.
9. The Contractor will maintain a list of employees authorized access. Such list will be provided to the State and, upon request, to the IRS reviewing office.
10. The State will have the right to void the Contract if the Contractor fails to provide the safeguards described above.

B. CRIMINAL/CIVIL SANCTIONS:

1. Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as $5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against

the officer or employee in an amount not less than $1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

2. Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the Contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as $1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of $1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431, and set forth at 26 CFR 301.6103(n)-1.

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

4. Prior to Contractor having access to Federal tax information, Contractor shall certify that each Contractor employee or other individual with access to or who use Federal tax information on Contractor's behalf pursuant to this Contract understands the State's security policy and procedures for safeguarding Federal tax information. Contractor's authorization to access Federal tax information hereunder shall be contingent upon annual recertification. The initial certification and recertification must be documented and placed in the State's files for review. As part of the certification, and at least annually afterwards, Contractor will be advised of the provisions of IRCs 7431, 7213, and 7213A (see IRS Publication 1075 *Exhibit 4, Sanctions for Unauthorized Disclosure*, and *Exhibit 5, Civil Damages for Unauthorized Disclosure*). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches (See Publication 1075, Section 10). For both the initial certification and the annual certification, the Contractor must sign a confidentiality statement certifying its understanding of the security requirements.

C. INSPECTION:

The IRS and the State, with 24 hours' notice, shall have the right to send its officers, employees, and inspectors into the offices and plants of the Contractor for inspection of the facilities and operations provided for the performance of any work under this Contract. for compliance with the requirements

defined in IRS Publication 1075. The IRS's right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology assets that access, store, process or transmit Federal tax information. On the basis of such inspection, corrective actions may be required in cases where the Contractor is found to be noncompliant with Contract safeguards.

10.   SOV Cybersecurity Standard 19-01

All products and service provided to or for the use of the State under this Contract shall be in compliance with State of Vermont Cybersecurity Standard 19-01, which Contractor acknowledges has been provided to it, and is available on-line at the following URL:

https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives

ATTACHMENT E
BUSINESS ASSOCIATE AGREEMENT

SOV CONTRACTOR/GRANTEE/BUSINESS ASSOCIATE: VERMONT INFORMATION TECHNOLOGY LEADERS

SOV CONTRACT NO. 40957 CONTRACT EFFECTIVE DATE: 1/1/2021

This Business Associate Agreement ("Agreement") is entered into by and between the State of Vermont Agency of Human Services, operating by and through its Department of Vermont Health Access ("Covered Entity") and Party identified in this Agreement as Contractor or Grantee above **("**Business Associate"). This Agreement supplements and is made a part of the contract or grant (Contract or Grant) to which it is attached.

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

The parties agree as follows:

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

"*Agent*" means an *Individual* acting within the scope of the agency of the *Business Associate*, in accordance with the Federal common law of agency, as referenced in 45 CFR § 160.402(c) and includes Workforce members and *Subcontractors*.
"*Breach*" means the acquisition, Access, Use or Disclosure of *Protected Health Information* (*PHI*) which compromises the Security or privacy of the *PHI*, except as excluded in the definition of *Breach* in 45 CFR § 164.402.
"*Business Associate*" shall have the meaning given for "Business Associate" in 45 CFR § 160.103 and means Contractor or Grantee and includes its Workforce, *Agents* and *Subcontractors*.
"*Electronic PHI*" shall mean *PHI* created, received, maintained or transmitted electronically in accordance with 45 CFR § 160.103.
"*Individual*" includes a Person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

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

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

"*Report*" means submissions required by this Agreement as provided in section 2.3.
"*Security Incident*" means the attempted or successful unauthorized Access, Use, Disclosure, modification, or destruction of Information or interference with system operations in an Information System relating to *PHI* in accordance with 45 CFR § 164.304.
"*Services*" includes all work performed by the *Business Associate* for or on behalf of Covered Entity that requires the Use and/or Disclosure of *PHI* to perform a *Business Associate* function described in 45 CFR § 160.103.

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

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

"*Targeted Unsuccessful Security Incident*" means an *Unsuccessful Security Incident* that appears to be an attempt to obtain unauthorized Access, Use, Disclosure, modification or destruction of the Covered Entity's *Electronic PHI*.

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

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

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

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

3.   Permitted and Required Uses/Disclosures of PHI.

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

Business Associate may not Use or Disclose *PHI* other than as permitted or required by this Agreement or as *Required by Law* and only in compliance with applicable laws and regulations.

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

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

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

5.   Electronic PHI Security Rule Obligations.

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

a) Implement and use Administrative, Physical, and Technical Safeguards in compliance with 45 CFR sections 164.308, 164.310, and 164.312;

b) Identify in writing upon request from Covered Entity all the safeguards that it uses to protect such *Electronic PHI*;

c) Prior to any Use or Disclosure of *Electronic PHI* by an *Agent* or *Subcontractor*, ensure that any *Agent* or *Subcontractor* to whom it provides *Electronic PHI* agrees in writing to implement and use Administrative, Physical, and Technical Safeguards that reasonably and appropriately protect the Confidentiality, Integrity and Availability of *Electronic PHI*. The written agreement must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of the agreement concerning the Use or Disclosure of *Electronic PHI*, and be provided to Covered Entity upon request;

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

e) Following such *Report,* provide Covered Entity with the information necessary for Covered Entity to investigate any such incident; and

f) Continue to provide to Covered Entity information concerning the incident as it becomes available to it.

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

5.3   *Business Associate* shall comply with any reasonable policies and procedures Covered Entity implements to obtain compliance under the Security Rule.

6.   Reporting and Documenting Breaches.

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

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

6.3   When *Business Associate* determines that an impermissible acquisition, Access, Use or Disclosure of *PHI* for which it is responsible is not a *Breach*, and therefore does not necessitate notice to the impacted *Individual*, it shall document its assessment of risk, conducted as set forth in 45 CFR § 402(2). *Business Associate* shall make its risk assessment available to Covered Entity upon request. It shall include 1) the name of the person making the assessment, 2) a brief summary of the facts, and 3) a brief statement of the reasons supporting the determination of low probability that the *PHI* had been compromised.

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

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8.   **Providing Notice of Breaches**.

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

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

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

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

9.   **Agreements with Subcontractors**. *Business Associate* shall enter into a Business Associate Agreement with any *Subcontractor* to whom it provides *PHI* to require compliance with HIPAA and to ensure *Business Associate* and *Subcontractor* comply with the terms and conditions of this Agreement. *Business Associate* must enter into such written agreement before any Use by or Disclosure of *PHI* to such *Subcontractor*. The written agreement must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of the agreement concerning the Use or Disclosure of *PHI*. *Business Associate* shall provide a copy of the written agreement it enters into with a *Subcontractor* to Covered Entity upon request. *Business Associate* may not make any Disclosure of *PHI* to any *Subcontractor* without prior written consent of Covered Entity.

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

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

directly receives from an *Individual*.

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

13.   **Books and Records**. Subject to the attorney-client and other applicable legal privileges, *Business Associate* shall make its internal practices, books, and records (including policies and procedures and *PHI*) relating to the Use and Disclosure of *PHI* available to the Secretary of Health and Human Services (HHS) in the time and manner designated by the Secretary. *Business Associate* shall make the same information available to Covered Entity, upon Covered Entity's request, in the time and manner reasonably designated by Covered Entity so that Covered Entity may determine whether *Business Associate* is in compliance with this Agreement.

14.   **Termination.**

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

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

15.   **Return/Destruction of PHI**.

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

15.2   *Business Associate* shall report to Covered Entity any conditions that *Business Associate* believes make the return or destruction of *PHI* infeasible. *Business Associate* shall extend the protections of this Agreement to such *PHI* and limit further Uses and Disclosures to those purposes that make the return or destruction infeasible for so long as *Business Associate* maintains such *PHI*.

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

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

18.   Miscellaneous.

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

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

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

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

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

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

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

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

made after such expiration or termination.

Rev. 05/22/2020

ATTACHMENT F
AGENCY OF HUMAN SERVICES' CUSTOMARY CONTRACT/GRANT PROVISIONS

1. **Definitions:** For purposes of this Attachment F, the term "Agreement" shall mean the form of the contract or grant, with all of its parts, into which this Attachment F is incorporated. The meaning of the term "Party" when used in this Attachment F shall mean any named party to this Agreement *other than* the State of Vermont, the Agency of Human Services (AHS) and any of the departments, boards, offices and business units named in this Agreement. As such, the term "Party" shall mean, when used in this Attachment F, the Contractor or Grantee with whom the State of Vermont is executing this Agreement. If Party, when permitted to do so under this Agreement, seeks by way of any subcontract, sub-grant or other form of provider agreement to employ any other person or entity to perform any of the obligations of Party under this Agreement, Party shall be obligated to ensure that all terms of this Attachment F are followed. As such, the term "Party" as used herein shall also be construed as applicable to, and describing the obligations of, any subcontractor, sub-recipient or sub-grantee of this Agreement. Any such use or construction of the term "Party" shall not, however, give any subcontractor, sub-recipient or sub-grantee any substantive right in this Agreement without an express written agreement to that effect by the State of Vermont.

2. **Agency of Human Services**: The Agency of Human Services is responsible for overseeing all contracts and grants entered by any of its departments, boards, offices and business units, however denominated. The Agency of Human Services, through the business office of the Office of the Secretary, and through its Field Services Directors, will share with any named AHS-associated party to this Agreement oversight, monitoring and enforcement responsibilities. Party agrees to cooperate with both the named AHS-associated party to this contract and with the Agency of Human Services itself with respect to the resolution of any issues relating to the performance and interpretation of this Agreement, payment matters and legal compliance.

3. **Medicaid Program Parties** (*applicable to any Party providing services and supports paid for under Vermont's Medicaid program and Vermont's Global Commitment to Health Waiver*):

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

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

responsibilities of the subcontractor or other service provider 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, though 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 though (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.

3.
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 7 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

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child care facilities, and on State lands) restrict the use of tobacco products in certain settings. Party shall ensure that no person is permitted: (i) to use tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both indoor and outdoor, of any licensed child care center or afterschool program at any time; (ii) to use tobacco products or tobacco substitutes on the premises, both indoor and in any outdoor area designated for child care, health or day care services, kindergarten, pre-kindergarten, elementary, or secondary education or library services; and (iii) to use tobacco products or tobacco substitutes on the premises of a licensed or registered family child care home while children are present and in care. Party will refrain from promoting the use of tobacco products for all clients and from making tobacco products available to minors.

Failure to comply with the provisions of the federal law may result in the imposition of a civil monetary penalty of up to $1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. The federal Pro-Children Act of 1994, however, does not apply to portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where Women, Infants, & Children (WIC) coupons are redeemed.

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

Voter Registration: When designated by the Secretary of State, Party agrees to become a voter registration agency as defined by 17 V.S.A. §2103 (41), and to comply with the requirements of state and federal law pertaining to such agencies.

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

Lobbying: No federal funds under this agreement may be used to influence or attempt to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, continuation, renewal, amendments other than federal appropriated funds.

AHS ATT. F 5/16/2018

ATTACHMENT H
BUSINESS PARTNER AGREEMENT

This Business Partner Agreement ("Agreement") is entered into by and between **the State of Vermont, Agency of Human Services operating by and through its Department of Vermont Health Access** ("DVHA") and **Vermont Information Technology Leaders (VITL)** ("Business Partner") as of **January 1, 2021** ("Effective Date"). This Agreement supplements and is made a part of the Contract to which it is attached.

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

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

    1.1 The term "**Services**" includes all work performed by the Business Partner for or on behalf of DVHA that requires the access, collection, use and/or disclosure of personally identifiable information (PII).

    1.2 The term "**PII**" refers to personally identifiable information in any medium, including electronic, which can be used to distinguish or trace an individual's identity, such as his/her name, social security number, biometric records, etc., either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name.

    1.3 The term "**Minimum Functions**" includes all work performed (or Contracted to be performed) pursuant to subparts D, E, H, and K of 45 CFR 155, if such work requires the Business Partner to create, collect, use, or disclose PII.

    1.4 The term "**Agreement**" refers to this Business Partner Agreement, which details the privacy and security requirements that the Parties must adhere to.

    1.5 The term "**Individual**" includes applicants, enrollees, and qualified individuals applying for coverage at the Vermont Health Insurance Exchange or Medicaid Agency.

    1.6 The term "**Breach**" means the loss of control, compromise, and unauthorized disclosure, acquisition, access, or use, and any similar term referring to situations where: (a) PII is used for an unauthorized purpose, or (b) persons other than authorized users have access or potential access to PII.

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

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

    2.2   Business Partner may make PII available to its employees who need access to perform Services and/or Minimum Functions, provided that Business Partner makes such employees aware of the creation, collection, use and disclosure restrictions in this Agreement and binds them to comply with such restrictions. Business Partner must also require workforce compliance with 45 CFR §155.260 when employees create, collect, use, or disclose PII in the course of providing Services

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

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

5.   **Documenting and Reporting Breaches**
Business Partner shall report to DVHA any Breach of PII as soon as it (or any of its employees or agents) becomes aware of such Breach, and in no case later than one (1) hour after it (or any of its employees or agents) become aware of the Breach. If DVHA determines that a Breach of PII occurred for which one of Business Partner's employees or agents was responsible, upon its request, Business Partner shall provide notice to the individual(s) whose PII was the subject of the Breach. When requested to provide notice, Business Partner shall consult with DVHA about the timeliness, content and method of notice, and shall receive DVHA's approval concerning these elements. The cost of notice and related remedies shall be borne by Business Partner. Business Partner shall also be responsible for any reporting as required by 9 V.S.A. § 2435.

6.   **Mitigation and Corrective Action Requirements** Business Partner shall mitigate, to the extent practicable, any harmful effect that is known to it of a Breach of PII. Business Partner shall draft and carry out a plan of corrective action to address any incident of impermissible collection, use or disclosure of PII, subject to DVHA's prior review and written approval.

7.   **Requirements for Agreements with Third Parties** Business Partner may only disclose PII to its agents, including subcontractors, for the purposes authorized by this Agreement. Business Partner shall ensure that any agent (including any subcontractor) to whom it provides PII received from DVHA or created or received by Business Partner on behalf of DVHA agrees in a written agreement to the same PII restrictions and conditions that apply through this Agreement to Business Partner. Business Partner must enter into the written agreement and obtain the prior written consent of DVHA before any use or disclosure of PII to such agent. The written agreement must identify DVHA as a direct and intended third party beneficiary with the right to enforce any Breach of the agreement concerning the use or disclosure of PII. Business Partner shall provide a copy of the signed agreement to DVHA upon request.

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

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

9.   Responsibility for the Return/Destruction of PII

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

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

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

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

12. Miscellaneous

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14. <u>**General Services;**</u> <u>**Criminal/Civil Sanctions**</u>

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

14.2 Each officer or employee of any person to who returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone without an official need to know constitutes a

criminal misdemeanor punishable upon conviction by a fine of as much as $1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution.   Such Person shall also notify such officer and employee that such authorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of $1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRC Sections 7213A and 7431.

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

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

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

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

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

16.2 Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material will be treated

as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Disclosure to anyone other than an officer or employee of the contractor will be prohibited.

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

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

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

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

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

17.   Technology Services; Criminal/Civil Sanctions

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

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of this contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as $1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution.   Such Person shall also notify such officer and employee that such authorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of $1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRC Sections 7213A and 7431.

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

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