

PSA

Original Contract Number:	17OECB23P1PCG		
Amendment Number:			
Maximum Contract Value:	\$1,878,500.00		
Contractor Contact Person:	Jamie Kilpatrick	Tel: (615) 983-5318	
OEC Contact:	Lynn Johnson	Tel: (860) 713-5013	

**STATE OF CONNECTICUT
PERSONAL SERVICE AGREEMENT
("PSA", "Contract" and/or "contract")
Revised February 2010**

The State of Connecticut OFFICE OF EARLY CHILDHOOD
 Street: 450 COLUMBUS BOULEVARD
 City: HARTFORD State: CT Zip: 06103
 Tel#: (860) 713-6411 ("Agency" and/or "Department"), hereby enters into a Contract with:

Contractor's Name: PUBLIC CONSULTING GROUP, INC.
 Street: 148 STATE STREET, 10TH FLOOR
 City: BOSTON State: MA Zip: 02109
 Tel#: (615) 983-5318

("Contractor"), for the provision of services outlined in Part I and for the compliance with Part II. The Agency and the Contractor shall collectively be referred to as "Parties". The Contractor shall comply with the terms and conditions set forth in this Contract as follows:

Contract Term /Effective Date	This Contract is in effect from 03/01/17 through 06/30/21 .
Statutory Authority	The Agency is authorized to enter into this Contract pursuant to P.A. 14-39 and §4-8, 4-98 as applicable, 10-500, and 17a-248g of the Connecticut General Statutes ("C.G.S.").
Set-Aside Status	Contractor <input type="checkbox"/> IS or <input checked="" type="checkbox"/> IS NOT a set aside Contractor pursuant to C.G.S. § 4a-60g.
Contract Amendment	This Contract may be amended only by means of a written instrument signed by the Agency, the Contractor, and, if required, the OAG.

All notices, demands, requests, consents, approvals or other communications required or permitted to be given or which are given with respect to this Contract (collectively called "Notices") shall be deemed to have been effected at such time as the Notice is hand-delivered; placed in the U.S. mail, first class and postage prepaid, return receipt requested; or placed with a recognized, overnight express delivery service that provides for a return receipt. Said notices shall become effective on the date of receipt as specified above or the date specified in the notice, whichever comes later. All such Notices shall be in writing and shall be addressed as follows:

If to the Agency:	State of Connecticut Office of Early Childhood 450 Columbus Boulevard Hartford, CT 06103 Attention: Lynn Johnson	If to the Contractor:	Public Consulting Group, Inc. 148 State Street, 10th Floor Boston, MA 02109 Attention: Jamie Kilpatrick
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Not forgoing the notice requirements herein, whenever practicable and permissible, the Contractor and the Agency shall communicate via electronic mail. This shall include, but not be limited to, electronic submission of contract documents and reports.

A party may modify the addressee or address for Notices by providing 10 days' prior written Notice to the other party. No formal amendment is required.

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PART I. SCOPE OF SERVICES, CONTRACT PERFORMANCE, BUDGET, REPORTS, AND PROGRAM- AND AGENCY-SPECIFIC SECTIONS

The Contractor hereinafter referred to as "Contractor," "Public Consulting Group Inc.," or "PCG," shall provide the following specific services for the Office of Early Childhood (OEC), Connecticut Birth to Three System and shall comply with the terms and conditions set forth in this Contract as required by the Agency, including but not limited to the requirements and measurements for scope of services, Contract performance, quality assurance, reports, terms of payment and budget.

A. TERM. This contract shall be in effect from **03/01/2017 through 06/30/2021**.

B. PURPOSE. The Contractor shall design and implement a system ("System") to bill commercial health insurance plans and Medicaid on behalf of State of Connecticut Early Intervention Service ("EIS") Programs and assist EIS Programs with following up on claim denials. The Contractor will also bill parents, on behalf of the State, for the early intervention services delivered by EIS Programs and manage direct service suspensions and communications when fees are not paid.

C. CONTRACTOR RESPONSIBILITIES.

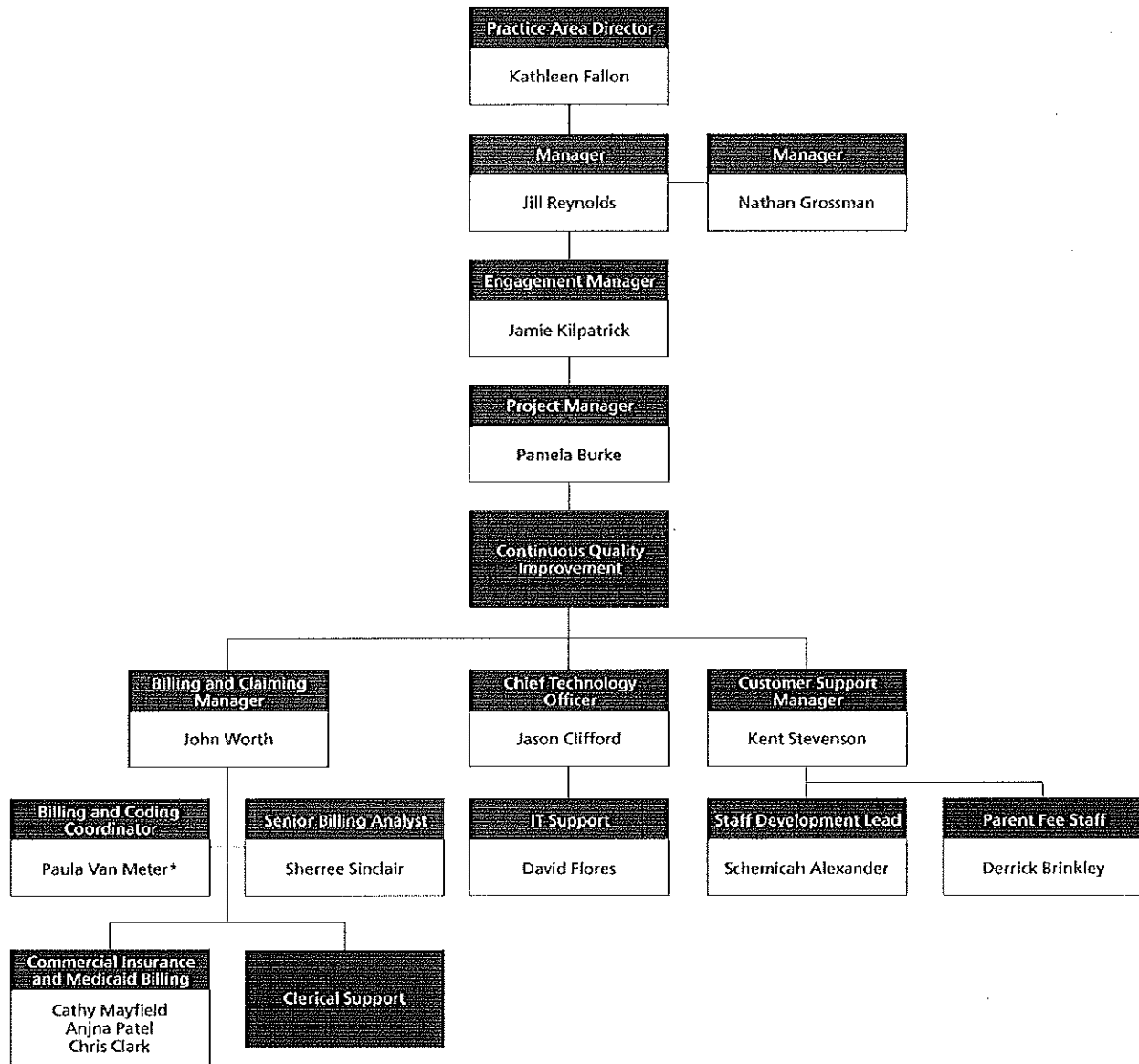
1. **STARTUP PHASE:** (March 2017). In collaboration with the OEC, the Contractor shall perform the following tasks:

- a. Define members of a Process Review Team that will be involved in the entire system development and implementation ("project") and a Core Design Team that will be responsible for involvement in identifying all the System requirements to be used in the Data Integration Phase.
- b. Collect EIS Program requirements, via a series of in-depth meetings with OEC staff and EIS Programs to identify and validate requirements to be incorporated into the System.
- c. Confirm and finalize the communication plan by scheduling calls and meetings, preparing escalation and participation plans.
- d. Define and confirm the project work plan with the CT Birth to Three System Core team.

2. **EARLY INTERVENTION BILLING SYSTEM PHASE:** (March 2017 – June 2017). The Contractor will perform the following tasks:

- a. Initiate its Project Management Office (PMO);
- b. Increase customer service operations to the initial projected staffing levels set forth herein;
- c. Validate business rules and requirements;
- d. Initiate and monitor trading agreements with EIS Programs;
- e. Review Business Processes of OEC Birth to Three and EIS Program operations, and assist with the development of the payment procedure;
- f. Initiate Contractor organizational units;
- g. Finalize a business process improvement plan including payment procedure;
- h. Finalize System design and initiate System development, including but not limited to:
 - i Conduct review team sessions;
 - ii Establish staging and production environments;
 - iii Determine user types and permissions;
 - iv Initiate System customization process;
 - v Test development process and feedback; and
 - vi Configure System with OEC acceptance; and
- i. Complete enrollment applications with EIS Programs and, if needed, offer assistance to EIS Programs to submit electronic claims to commercial insurers.

INITIAL STAFFING PLAN



*AAPC Certified Medical Coder

3. **DATA INTEGRATION PHASE: (MARCH 2017 – MAY 2017).** The Contractor will work with the OEC to:
- a. Determine data elements;
 - b. Identify systems for integration;
 - c. Confirm database of record;
 - d. Develop import/export routines; and
 - e. Conduct data integration quality assurance.

4. **TRAINING PHASE: (May 2017).** The Contractor will:
- a. Confirm System roll-out plan;
 - b. Establish enhancements training plan and conduct trainings for EIS Programs and OEC staff;
 - c. Finalize build-out of all organizational units;
 - d. Summarize user feedback for the OEC; and
 - e. Perform system enhancements, release and maintenance.
5. **IMPLEMENTATION / FULL OPERATION: (June 2017 – June 2021).** The Contractor will maintain a support and communication system for the dissemination of information to stakeholders within the project and to other individuals and entities as directed by the OEC. The Contractor shall perform the following tasks:
- a. System Implementation.
 - i. During June 2017 the Contractor will go live with a web-based billing and collection system hosted in two Tier IV datacenters located in Austin, TX and Watertown, MA; and
 - ii. From June 2017 through the end of the contract period, the Contractor will increase the use of electronic processing of claims.
 - b. Commercial Insurance and Medicaid Claims. The Contractor will perform the following tasks:
 - i. Process claims and payment to EIS Programs on behalf of the State for authorized services provided to children enrolled in the Connecticut Birth to Three System;
 - ii. Submit claims to commercial health insurance plans and Medicaid on behalf of all Birth to Three EIS providers by first validating and making necessary edits to claim data;
 - iii. Monitor program credentialing and contracting with commercial insurers and Medicaid, as well as monitoring provider specialty and licensure on file;
 - iv. Track rendering therapists associated with the billing provider;
 - v. Create HIPAA-compliant ANSI 5010 837 file based on schedule determined during project implementation and deliver through an automated process, or paper for those carriers that require paper. In return, contractor will then receive and process the files returned: 999-File Acknowledgement, 277P-Claim Status and 835-Adjudication results;
 - vi. Utilize the Contractor's adjudication matrix to fully resolve denied or rejected claims and work with the OEC to examine Commercial Insurance and Medicaid rejection and/or denial codes that payers return. If the appropriate action for a rejected or denied claim is identified on the matrix as a workable issue then the Contractor shall move the claim to next payer; otherwise, if the appropriate action for a rejected or denied claim is identified as a non-workable issue the Contractor shall then assign the claim to a work queue;
 - vii. Complete adjudication with commercial insurance and, as needed, send claims to the next payer: Medicaid or Escrow (state funding source);
 - viii. Once the Medicaid State Plan Amendment to change the Birth to Three rate from a bundled rate to a fee for service model is approved, the Contractor will begin submitting Medicaid claims on behalf of Connecticut Birth to Three EIS Program participants eligible for Medicaid;
 - ix. Confirm eligibility before Medicaid claims are submitted by sending HIPAA compliant 270 files to Medicaid and in return receives a 271 eligibility response file;
 - x. Generate and send to Medicaid on a HIPAA compliant 837. The contractor will then receive and process the files returned: 999, 277P and 835. Issues will be resolved with EIS Program input and claims will be resubmitted;
 - xi. Produce Medicaid reporting tools for a thorough review of Medicaid claims, including denials, pending claims and payments; and
 - xii. Develop ad-hoc reports for the OEC, EIS Programs and Families as requested by the OEC.
 - c. Billing and Collection of Parent Fees: The Contractor will bill parents of children enrolled in the Birth to Three System on behalf of the State in accordance with the State's approved System of Payments provided by the OEC via email. The Contractor shall perform the following tasks:

- i Determine the level of family cost participation co-pay based on income information provided by the EIS Program using the OEC rates posted on the Birth to Three website www.birth23.org and covered by Sections 17a-248-13 and 17a-248-14 of the Regulations of Connecticut State Agencies;
- ii Prepare and mail or email monthly invoices to families for payment, reflecting their family fees due, recent payment history and status (Paid in Full, Payment Pending, or Payment Overdue);
- iii Have systems in place so that families will be able to pay their fees by check, debit or credit cards or e-checks;
- iv Maintain a Family Cost Participation (FCP) accounts receivable system through an online portal, giving parents the opportunity to schedule payments, pay on demand or track payments;
- v Post parent fees as received and make adjustments for reasons including but not limited to insufficient funds, check holds, stop payments, changes in fee calculation;
- vi Prepare and mail or email monthly delinquent letters to families with past due accounts and/or initiate phone calls to families with delinquent accounts;
- vii Send EIS Programs 60 day suspension notice emails or reminders about reports available online;
- viii Send OEC-approved Written Prior Notice Suspension Letters to families whose accounts are three or more months in arrears on the 10th of the month for payment to be received before the first of the following month and notify the EIS Program on record;
- ix Update the OEC CT Birth to Three Data System when payment is not received by the due date for effective date of suspension, as well as when payment is received and suspension has been lifted;
- x Make available within the data system to the OEC an Accounts Receivable Aging report by family based on determinations made in the Implementation Plan;
- xi Remit previous month's parent fee collections, less bank/finance fees identified to the OEC CT Birth to Three Program staff within first three business days of each month;
- xii Track combined payments including but not limited to insurance, parent fees and other payments;
- xiii Enter into an agreement with a financial institution, approved by the State of Connecticut, in order to create an account to receive payments. The Contractor shall securely maintain the recipient's account information and exchange secure Automated Clearinghouse (ACH) files with the financial institution for proper disbursement of payment. The Contractor's System will be the system of record for this financial institution while allowing interaction with external systems to deliver financial data to the OEC;
- xiv Make an Accounts Receivables Management Module through the Contractor's Claim Submission Web Portal ("Portal") available to users, in accordance with user authority rules established in the implementation plan. The Contractor and its Portal will fulfill the data management requirements and responsibilities required for the OEC to meet federal reporting requirements and prevent overpayment of services. The Contractor will design the Portal to allow users to view online claims and payment data from multiple angles and to be able to drill down into details;
- xv The Contractor will supply all families with monthly statements similar to Explanations of Benefits listing the services received, Medicaid and/or commercial insurance payments made for Early Intervention Services, and which claims were paid, rejected, denied, pending or adjusted by a third party including parent fees when applicable; and
- xvi The Contractor will collect and summarize user feedback.

D. DEPARTMENT RESPONSIBILITIES. The OEC shall perform the following tasks:

1. Provide the Contractor with access to the CT Birth to Three Data System required to fulfill contractual obligations; and
2. Provide the Contractor through written or electronic transmittals with the following information:
 - a. EIS Program information required to fulfill contractual obligations; and
 - b. State and Federal requirements related to Birth to Three billing performed under this agreement.

E. LIAISONS. Both parties agree to have specifically named liaisons at all times. These representatives of the parties will be the first contacts regarding any questions and problems that arise during implementation and operation of this contract.

F. REPORTING AND DELIVERABLES.

1. The OEC and the Contractor mutually agree to adhere to the Contract Performance Standards as attached in Appendix A and made part of this agreement.

2. The Contractor shall provide reports to the OEC in written or electronic formats provided by the OEC documenting activities and completion of deliverables on the following schedule:

ACTIVITY/DELIVERABLE	REPORT PERIOD	DUE DATE
Schedule monthly status update meetings as needed and provide status update reports detailing project activities and progress, and report any key staff changes and Portal and A/R system issues. After go live date status reports will be submitted quarterly.	Monthly/Quarterly based on State Fiscal Year	By the 30th of each month prior to go live date; within 30 calendar days after the end of each calendar quarter thereafter
Define members of process review team	March 2017	3/31/17
Define members of core design team		
Finalize business process improvement plan	April 2017	4/30/17
Finalize payment procedure		
Finalize configuration of system		
Finalize system roll-out plan		
Provide electronic copies of trade agreements with EIS programs	May 2017	5/31/17
Finalize enhancements training plan		
Summarize user training feedback for the OEC		
Provide copy of agreement with financial institution		
Summarize System and Portal user feedback for OEC	Quarterly based on State Fiscal Year	Within 30 calendar days of go live date, and within 30 calendar days after the end of each quarter thereafter
Submit Itemized invoice	Monthly	Within 30 calendar days after month end
Remit to the OEC Parent Fees net of bank or finance fees	Monthly	Within 3 calendar days after month end

G. CONTRACTOR PAYMENT PROVISIONS

1. For the performance of the services and tasks described herein, the Contractor shall receive a maximum dollar amount not to exceed \$1,878,500.00. The Contractor agrees that any payment amount designated as "estimated" in the table below indicates the anticipated maximum amount that could be paid for each service and is not the amount due for the performance of each service.
2. The Department shall make payments to the Contractor on the following schedule:

ITEM	AMOUNT	PAY ON OR AFTER DATE
One-time payment for assistance with payment procedure review, edits and finalization	\$15,000.00	Upon execution and approval of agreement by the Connecticut Attorney General, and upon approval of payment procedure by the US Dept. of Education Office of Special Education Programs (OSEP)
Submission of Commercial Health Insurance Claims - all inclusive (includes follow-up on claim denials) to be paid at 7% of collections, billed monthly	up to a maximum of \$232,000 annually (estimated)	10 business days after OEC approval of monthly invoice
Submission of Medicaid Claims, billed monthly	all inclusive (includes follow-up on claim denials) will be paid at .05% of collections up to a maximum of \$122,000 annually (estimated)	10 business days after OEC approval of monthly invoice

Processing Parent Fees, billed monthly	flat cost of \$6,000 per month plus any specific costs for printing/postage and/or bank/finance fees up to a maximum of \$79,500 per year (estimated)	10 business days after OEC approval of monthly invoice
Printing and Postage costs for statements for all families without internet access including families insured by Medicaid, billed monthly	Maximum of \$11,000 annually	10 business days after OEC approval of monthly invoice

3. All payments to the Contractor will be contingent upon availability of funds and upon the OEC's receipt and approval of itemized invoices submitted monthly for work performed during the prior month, in a format approved by the OEC, with a detailed description of the work completed and all deliverables due.
4. The Contractor acknowledges that OEC may claim the funds provided through this Agreement as part of an OEC federal claim and therefore, the funds are not to be used as a match for any other federal program. The Contractor shall include this provision in any subcontract agreements that are funded, in whole or in part, by the funds from this agreement.

G. **NOTICES:** In addition to the persons listed on page 1 of this contract, notices shall be addressed as follows:

In case of notice to the OEC regarding fiscal matters: Pietro Rosato, Finance Director, Office of Early Childhood, 450 Columbus Boulevard, Suite 206, Hartford, CT 06103, pietro.rosato@ct.gov, (860) 500-4442

APPENDIX A - CT Possible Billing, Claim and system Contract Performance Standard (s) (CPS)

System Availability				
Requirement Category	Description	Specifications	Financial Penalty for Noncompliance	PCG's Performance Management Approach
Production Environment Hours of System Availability	The hours that the production environment needs to be operational and available. This CPS also applies to the failover and disaster recovery environments when they are used for production.	Access Hours: 24 hours / day, 7 days a week, except for scheduled maintenance during specified time periods agreed upon by the CT Office of Early Childhood, (OEC). System availability requirement is one hundred percent (100%). OEC must be notified of scheduled downtime as soon as possible, but no later than 24 hours in advance	\$100 for each unplanned disruption in production environment. \$100 for each failure to notify the OEC or users of scheduled downtime within 5 business days.	Unplanned system issue that results in system unavailability will be documented in the issue tracking log. The PCG team will monitor the following components: Web User Interfaces, Application Server, Database and System Data Transfers. There will be system monitoring, error logs and email messages that will alert us if a component cause the system to be unavailable. Each failure to notify the OEC or users of scheduled downtime within 5 days will be documented in the issue tracking log. This log will be available to OEC via the PCG Program Management Office (PMO).

PROCESSING PERFORMANCE			
Requirement Category	Description	Specifications	Financial Penalty for Noncompliance
Electronic Log Files	PCG maintains management logs to track all electronic files.	The contractor must maintain the necessary data in appropriate log files to measure its performance. If the OEC notifies the contractor that damages will be assessed because of non-conformance with a CPS and the log files are not maintained or are damaged in such a way that PCG cannot substantiate its performance against a CPS, it will be construed that PCG did not meet the CPS in question.	The penalty for the appropriate CPS (s) will be assessed at \$100 per instance. Management logs will be maintained by the PMO to track processing of daily inbound and outbound 835 and 837 files, weekly eligibility and authorization files, biweekly provider management files, monthly third party liability files, annual upload of CPT and ICD-9 updates, semiannual upload of adjustment reason and remittance advice remark code files and upload of fee schedules for the state as made available. In the event the payer does not return a valid 835 remittance response, no penalty will be assessed for delayed processing, since the files are in a non-standard format.

PROCESSING PERFORMANCE			
Requirement Category	Description	Specifications	Financial Penalty for Noncompliance
Electronic Claims Adjudication	PCG will process payer initiated reversals received on inbound 835 files. Once the claim reversals are reviewed, PCG will reprocess the claims and generate a new remittance advice explaining the reason for the adjustment.	Reprocess erroneously denied claims within five (5) business days of discovery of erroneous denial.	\$.10/claim for each erroneously denied claim not reprocessed within (5) business days. A report will be generated within five (5) business days following the in-load of 835 files to review claims containing payer initiated reversal transactions caused by erroneous denials. The report will be available on our web based system and will report claims that were erroneously denied. Files that do not meet the required reprocessing schedule will be reviewed to determine the cause for the delay and determine any next steps.

PROCESSING PERFORMANCE				
Requirement Category	Description	Specifications	Financial Penalty for Noncompliance	PCG's Performance Management Approach
Non-Electronic Claims Adjudication	PCG's clearing house converts 837 files to paper claims, in the event that a payer does not accept a HIPAA compliant 837.	Claims adjudication is posted within ten (10) calendar days of receipt by the contractor.	\$.10/claim for each non-electronic claim that was not processed within the ten (10) calendar days.	<p>A daily report will be generated to measure the receipt date of the electronic claim against the date/time stamp claims sent to the insurance carrier to measure performance.</p> <p>For denied claims, the measure will be against the date/time stamp of the post of the denied claim to the system as final adjudication.</p> <p>The data generated in this report will be used to provide CPS requirement results to the OEC.</p> <p>Claims that do not meet required metrics will be reviewed to determine the cause for the delay and determine any next steps.</p>
Inbound Files	PCG will receive and post inbound 277 claim status response files and 835 payment files	Process inbound files within five (5) business days of receipt of the file.	\$100 per file per business day late.	<p>PCG will produce a daily report within our web-based system that will measure the date/time an inbound file is posted against the date/time stamp of the successful load into the adjudication system.</p> <p>Files that do not meet the five (5) business day requirement will be reviewed to determine the cause for the delay and determine any next steps.</p>

PROCESSING PERFORMANCE			
Requirement Category	Description	Specifications	Financial Penalty for Noncompliance
Early Intervention Rate Files	PCG will receive and upload fee schedules	PCG will receive and upload fee schedules from the OEC. OEC must give the new fee schedule prior to the rates going into effect.	Amount of any overpayment or underpayment for claims processed using out-dated files plus one percent (1%), to a maximum of \$1,000/occurrence.
			<p>PCG's Performance Management Approach</p> <p>A management log will be maintained within our web portal to track fee schedule updates as they are made available. Claim adjustments processed due to overpayment or underpayment of claims due to out-dated fee schedules will be tracked and reported within our web-based system.</p> <p>Any discrepancies will be reviewed to determine the cause for the delay and determine any next steps</p>

PROCESSING PERFORMANCE			
Requirement Category	Description	Specifications	Financial Penalty for Noncompliance
Notification of Errors With Inbound and Outbound Files Reconciliation	PCG will notify OEC of any discrepancies, errors, failed file transmissions, or abnormal interactions with external interface during file transfer process formats.	Support and monitor the processing of transaction files and notify the OEC of all transactions that have not been processed successfully. This notification must take place no later than two (2) business days of transaction processing date.	\$100 for each occurrence of failure to notify the OEC within two (2) business days of transaction processing date.
			<p>PCG's Performance Management Approach</p> <p>PCG will produce a daily report within our web-based system that will measure the date/time a notification is sent for inbound and outbound file reconciliations. In the event that errors occur with this reconciliation, OEC will be notified by the PMO.</p> <p>The report will provide data on notification transactions including 837 inbound (inbound to PCG), remittance advice, 835, EDI file, member file, provider file, authorization, and evaluation via 277, 999, 835 and other standard HIPAA transactions.</p> <p>Claims that do not meet the two (2) business day acknowledgement requirement will be reviewed by to determine the cause for the delay and determine any next steps.</p>

Batch Transactions Processing			
Requirement Category	Description	Specifications	Financial Penalty for Noncompliance
Batch Transactions Acknowledgement	PCG's core system allows OEC to submit original, void or replacement claims data.	Acknowledge the receipt of batch transaction files to the originator for all batches received on any given calendar day. Acknowledgement must be within two (2) business days.	\$100 per file not responded to within two (2) business days.
			PCG will produce a daily report within our web-based system that will measure the date/time a claim file is accepted or rejected via the billing web portal against the acknowledgement code date stamp to measure performance. Claims that do not meet the two (2) business days acknowledgement requirement will be reviewed to determine the cause for the delay and determine any next steps.

Batch Transaction Processing			
Requirement Category	Description	Specifications	Financial Penalty for Noncompliance
Batch Transactions Response	PCG's core system will generate a response to indicate that the data has been successfully retrieved. We will submit notification when	Acknowledge the receipt of batch transaction files to the originator for all batches received on any given calendar day. Acknowledgement must be within two (2) business days.	\$100 per file not responded to within two (2) business days.
			PCG will produce a daily report within our web-based system that will measure the date a claim file is acknowledged. Claims that do not meet the two (2) business day response requirement will be reviewed to determine the cause for the delay and determine any next steps.

Operational Reports

Requirement Category	Description	Specifications	Financial Penalty for Noncompliance	PCG's Performance Management Approach
1099 Reporting	PCG will send all 1099 earnings reports to providers	Produce and mail to providers 1099 earnings reports in accordance with Federal and State regulations.	\$1000 if 1099's are not distributed on time, plus any penalties imposed on the OEC by the IRS, up to \$5,000 maximum annually.	PCG will leverage our web-based system to maintain a log of 1099 earnings reports distributed to the provider including date stamps. The system will document the reported earnings and related data. Inaccurate and/or delayed reporting will be reviewed to determine the cause for the delay and determine any next steps.
1099 Reporting	Maintain a log of original and corrected 1099 reports – including maintenance of a log.	Transmit electronically original and corrected 1099 files to the IRS and CT office of Tax and Finance in accordance with Federal and State regulations	\$1000 plus any penalties imposed on the OEC by the IRS if 1099 files are not accurate, up to \$5,000 maximum annually.	PCG will leverage our web-based system to maintain a log of original and corrected 1099 earnings reports distributed to the provider including date stamps. The system will document the reported earnings and related data. Inaccurate and/or delayed reporting will be reviewed by to determine the cause for the delay and determine any next steps.
Required Reports	Minimum required reports which must be available to users, including OEC staff, providers and parents as described in the RFP.	Produce, maintain and provide easy-to-use web-based library of canned reports for viewing, printing and download as Word and PDF documents on-line, (CSV) file format.	\$100 per report that is not accurate or available to users in accordance with a schedule agreed upon by the OEC and the PCG.	PCG will leverage our web-based system to maintain a log of required reports and their availability. Inaccurate and/or delayed reporting will be reviewed to determine the cause for the delay and determine any next steps.

PART II. TERMS AND CONDITIONS

The Contractor shall comply with the following terms and conditions.

A. Definitions. Unless otherwise indicated, the following terms shall have the following corresponding definitions:

1. **"Bid"** shall mean a bid submitted in response to a solicitation.
2. **"Breach"** shall mean a party's failure to perform some contracted-for or agreed-upon act, or his failure to comply with a duty imposed by law which is owed to another or to society.
3. **"Cancellation"** shall mean an end to the Contract affected pursuant to a right which the Contract creates due to a Breach.
4. **"Claims"** shall mean all actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmaturing, contingent, known or unknown, at law or in equity, in any forum.
5. **"Confidential Information"** shall mean any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual including, but not limited to, such individual's name, date of birth, mother's maiden name, motor vehicle operator's license number, Social Security number, employee identification number, employer or taxpayer identification number, alien registration number, government passport number, health insurance identification number, demand deposit account number, savings account number, credit card number, debit card number or unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation. Without limiting the foregoing, Confidential Information shall also include any information that the Department classifies as "confidential" or "restricted." Confidential Information shall not include information that may be lawfully obtained from publicly available sources or from federal, state, or local government records which are lawfully made available to the general public.
6. **"Confidential Information Breach"** shall mean, generally, an instance where an unauthorized person or entity accesses Confidential Information in any manner, including but not limited to the following occurrences: (1) any Confidential Information that is not encrypted or protected is misplaced, lost, stolen or in any way compromised; (2) one or more third parties have had access to or taken control or possession of any Confidential Information that is not encrypted or protected without prior written authorization from the State; (3) the unauthorized acquisition of encrypted or protected Confidential Information together with the confidential process or key that is capable of compromising the integrity of the Confidential Information; or (4) if there is a substantial risk of identity theft or fraud to the client, the Contractor, the Department or State.
7. **"Contract"** shall mean this agreement, as of its effective date, between the Contractor and the State for Services.
8. **"Contractor Parties"** shall mean a Contractor's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract (e.g. subcontractor) and the Contractor intends for such other person or entity to perform under the Contract in any capacity. For the purpose of this Contract, vendors of support services, not otherwise known as human service providers or educators, shall not be considered subcontractors, e.g. lawn care, unless such activity is considered part of a training, vocational or educational program.
9. **"Data"** shall mean all results, technical information and materials developed and/or obtained in the performance of the Services hereunder, including but not limited to all reports, survey and evaluation tools, surveys and evaluations, plans, charts, recordings (video and/or sound), pictures, curricula, electronically prepared presentations, public awareness or prevention campaign materials, drawings, analyses, graphic representations, computer programs and printouts, notes and memoranda, and documents, whether finished or unfinished, which result from or are prepared in connection with the Services performed hereunder.
10. **"Day"** shall mean all calendar days, other than Saturdays, Sundays and days designated as national or State of Connecticut holidays upon which banks in Connecticut are closed.
11. **"Expiration"** shall mean an end to the Contract due to the completion in full of the mutual performances of the parties or due to the Contract's term being completed.

12. "Force Majeure" shall mean events that materially affect the Services or the time schedule within which to perform and are outside the control of the party asserting that such an event has occurred, including, but not limited to, labor troubles unrelated to the Contractor, failure of or inadequate permanent power, unavoidable casualties, fire not caused by the Contractor, extraordinary weather conditions, disasters, riots, acts of God, insurrection or war.
13. "Records" shall mean all working papers and such other information and materials as may have been accumulated and/or produced by the Contractor in performing the Contract, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries and correspondence, kept or stored in any form.
14. "Services" shall mean the performance of Services as stated in Part I of this Contract.
15. "State" shall mean the State of Connecticut, including any agency, office, department, board, council, commission, institution or other executive branch agency of State Government.
16. "Termination" shall mean an end to the Contract affected pursuant to a right which the Contract creates, other than for a Breach.

B. Contractor Obligations.

1. **Credits and Rights in Data.** Unless expressly waived in writing by the Agency, all Records and publications intended for public distribution during or resulting from the performances of this Contract shall include a statement acknowledging the financial support of the State and the Agency and, where applicable, the federal government. All such publications shall be released in conformance with applicable federal and state law and all regulations regarding confidentiality. Any liability arising from such a release by the Contractor shall be the sole responsibility of the Contractor and the Contractor shall indemnify and hold harmless the Agency, unless the Agency or its agents co-authored said publication and said release is done with the prior written approval of the Agency Head. All publications shall contain the following statement: "This publication does not express the views of the [insert Agency name] or the State of Connecticut. The views and opinions expressed are those of the authors." Neither the Contractor nor any of its agents shall copyright Data and information obtained under this Contract, unless expressly previously authorized in writing by the Agency. The Agency shall have the right to publish, duplicate, use and disclose all such Data in any manner, and may authorize others to do so. The Agency may copyright any Data without prior Notice to the Contractor. The Contractor does not assume any responsibility for the use, publication or disclosure solely by the Agency of such Data.
2. **Federal Funds.**
 - (a) The Contractor shall comply with requirements relating to the receipt or use of federal funds. The Agency shall specify all such requirements in Part I of this Contract.
 - (b) The Contractor acknowledges that the Agency has established a policy, as mandated by section 6032 of the Deficit Reduction Act (DRA) of 2005, P.L. 109-171, that provides detailed information about the Federal False Claims Act, 31 U.S.C. §§ 3729-3733, and other laws supporting the detection and prevention of fraud and abuse.
 - i. Contractor acknowledges that it has received a copy of said policy and shall comply with its terms, as amended, and with all applicable state and federal laws, regulations and rules. Contractor shall provide said policy to subcontractors and shall require compliance with the terms of the policy. Failure to abide by the terms of the policy, as determined by the Agency, shall constitute a Breach of this Contract and may result in cancellation or termination of this Contract.
 - ii. This section applies if, under this Contract, the Contractor or Contractor Parties furnishes, or otherwise authorizes the furnishing of health care items or services, performs billing or coding functions, or is involved in monitoring of health care provided by the Agency.
 - (c) Contractor represents that it is not excluded, debarred, suspended or otherwise ineligible to participate in federal health care programs.
 - (d) Contractor shall not, for purposes of performing the Contract with the Agency, knowingly employ or contract with, with or without compensation: (A) any individual or entity listed by a federal agency as excluded,

debarred, suspended or otherwise ineligible to participate in federal health care programs; or (B) any person or entity who is excluded from contracting with the State of Connecticut or the federal government (as reflected in the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, Department of Health and Human Services, Office of Inspector General (HHS/OIG) Excluded Parties list and the Office of Foreign Assets Control (OFAC) list of Specially Designated Nationals and Blocked Persons List). Contractor shall immediately notify the Agency should it become subject to an investigation or inquiry involving items or services reimbursable under a federal health care program or be listed as ineligible for participation in or to perform Services in connection with such program. The Agency may cancel or terminate this Contract immediately if at any point the Contractor, subcontractor or any of their employees are sanctioned, suspended, excluded from or otherwise become ineligible to participate in federal health care programs.

3. Annual Financial Audit; Audit and Inspection of Plants and Places of Business; and Records.

- a. **Financial Audit Requirements.** For purposes of this paragraph, the word "contractor" shall be deemed to mean "nonstate entity," as that term is defined in Section 4-230 of the Connecticut General Statutes. The Contractor shall provide for an annual financial audit acceptable to the Department for any expenditure of state-awarded funds made by the Contractor. Such audit shall include management letters and audit recommendations. The State Auditors of Public Accounts shall have access to all records and accounts for the fiscal year(s) in which the award was made. The Contractor will comply with federal and state single audit standards as applicable.
- b. **Audits and Inspections.**
- i. The State and its agents, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents, may, at reasonable hours, inspect and examine all of the parts of the Contractor's and Contractor Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Contract.
 - ii. All audits and inspections described in sections b through h of this section shall be at the State's expense.
 - iii. The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
 - iv. The State shall make all requests for any audit or inspection in writing and shall provide the Contractor with at least twenty-four (24) hours' notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice.
 - v. The Contractor shall incorporate this entire Section verbatim into any contract or other agreement that it enters into with any Contractor Party.
- c. **Records.**
- i. The Contractor shall maintain, and shall require each of the Contractor Parties to maintain, accurate and complete Records. The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State and its agents.
 - ii. The Contractor shall keep and preserve or cause to be kept and preserved all of its and Contractor Parties' Records until three (3) years after the latter of (i) final payment under this Agreement, or (ii) the expiration or earlier termination of this Agreement, as the same may be modified for any reason. The State may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, the Contractor shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.

4. **Reports.** The Contractor shall provide the Agency with such statistical, financial and programmatic information necessary to monitor and evaluate compliance with the Contract. All requests for such information shall comply with all applicable state and federal confidentiality laws. The Contractor shall provide the Agency with such reports as the Agency requests as required by this Contract.
5. **Delinquent Reports.** The Contractor shall submit required reports by the designated due dates as identified in this Contract. After notice to the Contractor and an opportunity for a meeting with an Agency representative, the Agency reserves the right to withhold payments for services performed under this Contract if the Agency has not received acceptable progress reports, expenditure reports, refunds, and/or audits as required by this Contract or previous contracts for similar or equivalent services the Contractor has entered into with the Agency. This section shall survive any Termination of the Contract or the Expiration of its term.
6. **Related Party Transactions.** The Contractor shall report all related party transactions, as defined in this section, to the Agency on an annual basis in the appropriate fiscal report as specified in Part I of this Contract. "Related party" means a person or organization related through marriage, ability to control, ownership, family or business association. Past exercise of influence or control need not be shown, only the potential or ability to directly or indirectly exercise influence or control. "Related party transactions" between a Contractor or Contractor Party and a related party include, but are not limited to:
 - a. Real estate sales or leases;
 - b. leases for equipment, vehicles or household furnishings;
 - c. Mortgages, loans and working capital loans; and
 - d. Contracts for management, consultant and professional services as well as for materials, supplies and other services purchased by the Contractor or Contractor Party.
7. **Suspension or Debarment.** In addition to the representations and requirements set forth in Section D.4:
 - a. The Contractor certifies for itself and Contractor Parties involved in the administration of federal or state funds that they:
 - i. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any governmental agency (federal, state or local);
 - ii. within a three year period preceding the effective date of this Contract, have not been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; for violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
 - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the above offenses; and
 - iv. Have not within a three year period preceding the effective date of this Contract had one or more public transactions terminated for cause or fault.
 - b. Any change in the above status shall be immediately reported to the Agency.
8. **Subcontracts.** Each Contractor Party's identity, services to be rendered and costs shall be detailed in Part I of this Contract. Absent compliance with this requirement, no Contractor Party may be used or expense paid under this Contract unless expressly otherwise provided in Part I of this Contract. No Contractor Party shall acquire any direct right of payment from the Agency by virtue of this section or any other section of this Contract. The use of Contractor Parties shall not relieve the Contractor of any responsibility or liability under this Contract. The Contractor shall make available copies of all subcontracts to the Agency upon request.
9. **Independent Capacity of Contractor.** The Contractor and Contractor Parties shall act in an independent capacity and not as officers or employees of the state of Connecticut or of the Agency.

10. **Sovereign Immunity.** The parties acknowledge and agree that nothing in the Solicitation or the Contract shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Contract. To the extent that this section conflicts with any other section, this section shall govern.
11. **Indemnification; Insurance.**
- a. The Contractor shall indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising, directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively, the "Acts") of the Contractor or Contractor Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Contractor's obligations under this section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Contractor's bid, proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the Performance.
 - b. The Contractor shall not be responsible for indemnifying or holding the State harmless from any liability arising due to the negligence of the State or any third party acting under the direct control or supervision of the State.
 - c. The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such Claims.
 - d. The Contractor's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.
 - e. **Insurance.** The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any provisions survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall name the State as an additional insured on the policy and shall provide a copy of the policy to the Agency prior to the effective date of the Contract. The Contractor shall not begin Performance until the delivery of the policy to the Agency. The Agency shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that the Agency or the State is contributorily negligent.
 - f. This section shall survive the Termination of the Contract and shall not be limited by reason of any insurance coverage.
12. **Choice of Law/Choice of Forum, Settlement of Disputes, Claims Against the State.**
- a. The Contract shall be deemed to have been made in the City of Hartford, State of Connecticut. Both Parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or

will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.

- b. Any dispute concerning the interpretation or application of this Contract shall be decided by the Agency Head or his/her designee whose decision shall be final, subject to any rights the Contractor may have pursuant to state law. In appealing a dispute to the Agency Head pursuant to this section, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final resolution of a dispute, the Contractor and the Agency shall proceed diligently with the performance of the Contract.
- c. The Contractor agrees that the sole and exclusive means for the presentation of any claim against the State arising from this Contract shall be in accordance with Title 4, Chapter 53 of the Connecticut General Statutes (Claims Against the State) and the Contractor further agrees not to initiate legal proceedings, except as authorized by that Chapter, in any state or federal court in addition to or in lieu of said Chapter 53 proceedings.

13. Litigation.

- a. The Contractor shall require that all Contractor Parties, as appropriate, disclose to the Contractor, to the best of their knowledge, any Claims involving the Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under the Contract, no later than ten (10) days after becoming aware or after they should have become aware of any such Claims. Disclosure shall be in writing.
- b. The Contractor shall provide written Notice to the Agency of any final decision by any tribunal or state or federal agency or court which is adverse to the Contractor or which results in a settlement, compromise or claim or agreement of any kind for any action or proceeding brought against the Contractor or its employee or agent under the Americans with Disabilities Act of 1990 as revised or amended from time to time, Executive Orders Nos. 3 & 17 of Governor Thomas J. Meskill and any other requirements of federal or state law concerning equal employment opportunities or nondiscriminatory practices.

14. Compliance with Law and Policy, Facility Standards and Licensing. Contractor shall comply with all:

- a. pertinent local, state and federal laws and regulations as well as Agency policies and procedures applicable to contractor's programs as specified in this Contract. The Agency shall notify the Contractor of any applicable new or revised laws, regulations, policies or procedures which the Agency has responsibility to promulgate or enforce; and
- b. applicable local, state and federal licensing, zoning, building, health, fire and safety regulations or ordinances, as well as standards and criteria of pertinent state and federal authorities. Unless otherwise provided by law, the Contractor is not relieved of compliance while formally contesting the authority to require such standards, regulations, statutes, ordinance or criteria.

15. Representations and Warranties. Contractor shall:

- a. perform fully under the Contract;
- b. pay for and/or secure all permits, licenses and fees and give all required or appropriate notices with respect to the provision of Services as described in Part I of this Contract; and
- c. adhere to all contractual sections ensuring the confidentiality of all Records that the Contractor has access to and are exempt from disclosure under the State's Freedom of Information Act or other applicable law.

16. Protection of Confidential Information

- a. Contractor and Contractor Parties, at their own expense, have a duty to and shall protect from a Confidential Information Breach any and all Confidential Information which they come to possess or control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with current industry standards.

- b. Each Contractor or Contractor Party shall develop, implement and maintain a comprehensive data - security program for the protection of Confidential Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for protection of Confidential Information, and information of a similar character, as set forth in all applicable federal and state law and written policy of the Department or State concerning the confidentiality of Confidential Information. Such data-security program shall include, but not be limited to, the following:
- i. A security policy for employees related to the storage, access and transportation of data containing Confidential Information;
 - ii. Reasonable restrictions on access to records containing Confidential Information, including access to any locked storage where such records are kept;
 - iii. A process for reviewing policies and security measures at least annually;
 - iv. Creating secure access controls to Confidential Information, including but not limited to passwords; and
 - v. Encrypting of Confidential Information that is stored on laptops, portable devices or being transmitted electronically.
- c. The Contractor and Contractor Parties shall notify the Department and the Connecticut Office of the Attorney General as soon as practical, but no later than twenty-four (24) hours, after they become aware of or suspect that any Confidential Information which Contractor or Contractor Parties have come to possess or control has been subject to a Confidential Information Breach. If a Confidential Information Breach has occurred, the Contractor shall, within three (3) business days after the notification, present a credit monitoring and protection plan to the Commissioner of Administrative Services, the Department and the Connecticut Office of the Attorney General, for review and approval. Such credit monitoring or protection plan shall be made available by the Contractor at its own cost and expense to all individuals affected by the Confidential Information Breach. Such credit monitoring or protection plan shall include, but is not limited to reimbursement for the cost of placing and lifting one (1) security freeze per credit file pursuant to Connecticut General Statutes § 36a-701a. Such credit monitoring or protection plans shall be approved by the State in accordance with this Section and shall cover a length of time commensurate with the circumstances of the Confidential Information Breach. The Contractors' costs and expenses for the credit monitoring and protection plan shall not be recoverable from the Department, any State of Connecticut entity or any affected individuals.
- d. The Contractor shall incorporate the requirements of this Section in all subcontracts requiring each Contractor Party to safeguard Confidential Information in the same manner as provided for in this Section.
- e. Nothing in this Section shall supersede in any manner Contractor's or Contractor Party's obligations pursuant to HIPAA or the provisions of this Contract concerning the obligations of the Contractor as a Business Associate of the Department.

C. Changes to the Contract, Termination, Cancellation and Expiration.

1. Contract Amendment.

- (a) No amendment to or modification or other alteration of this Contract shall be valid or binding upon the parties unless made in writing, signed by the parties and, if applicable, approved by the OAG.
- (b) The Agency may amend this Contract to reduce the contracted amount of compensation if:
- (1) the total amount budgeted by the State for the operation of the Agency or Services provided under the program is reduced or made unavailable in any way; or
 - (2) federal funding reduction results in reallocation of funds within the Agency.
- (c) If the Agency decides to reduce the compensation, the Agency shall send written Notice to the Contractor. Within twenty (20) Days of the Contractor's receipt of the Notice, the Contractor and the Agency shall negotiate the implementation of the reduction of compensation unless the parties mutually agree that such negotiations would be futile. If the parties fail to negotiate an implementation schedule, then the Agency may terminate the

Contract effective no earlier than sixty (60) Days from the date that the Contractor receives written notification of Termination and the date that work under this Contract shall cease.

2. Contractor Changes and Assignment.

- (a) The Contractor shall notify the Agency in writing:
 - (1) at least ninety (90) days prior to the effective date of any fundamental changes in the Contractor's corporate status, including merger, acquisition, transfer of assets, and any change in fiduciary responsibility;
 - (2) no later than ten (10) days from the effective date of any change in:
 - (A) its certificate of incorporation or other organizational document;
 - (B) more than a controlling interest in the ownership of the Contractor; or
 - (C) the individual(s) in charge of the performance.
- (b) No such change shall relieve the Contractor of any responsibility for the accuracy and completeness of the performance. The Agency, after receiving written Notice from the Contractor of any such change, may require such contracts, releases and other instruments evidencing, to the Agency's satisfaction, that any individuals retiring or otherwise separating from the Contractor have been compensated in full or that allowance has been made for compensation in full, for all work performed under terms of the Contract. The Contractor shall deliver such documents to the Agency in accordance with the terms of the Agency's written request. The Agency may also require, and the Contractor shall deliver, a financial statement showing that solvency of the Contractor is maintained. The death of any Contractor Party, as applicable, shall not release the Contractor from the obligation to perform under the Contract; the surviving Contractor Parties, as appropriate, must continue to perform under the Contract until performance is fully completed.
- (c) **Assignment.** The Contractor shall not assign any of its rights or obligations under the Contract, voluntarily or otherwise, in any manner without the prior written consent of the Agency.
 - (1) The Contractor shall comply with requests for documentation deemed to be appropriate by the Agency in considering whether to consent to such assignment.
 - (2) The Agency shall notify the Contractor of its decision no later than forty-five (45) Days from the date the Agency receives all requested documentation.
 - (3) The Agency may void any assignment made without the Agency's consent and deem such assignment to be in violation of this Section and to be in Breach of the Contract. Any cancellation of this Contract by the Agency for a Breach shall be without prejudice to the Agency's or the State's rights or possible claims against the Contractor.

3. Breach.

- (a) If either party Breaches this Contract in any respect, the non-breaching party shall provide written notice of the Breach to the breaching party and afford the breaching party an opportunity to cure within ten (10) Days from the date that the breaching party receives the notice. In the case of a Contractor Breach, the Agency may modify the ten (10) day cure period in the notice of Breach. The right to cure period shall be extended if the non-breaching party is satisfied that the breaching party is making a good faith effort to cure, but the nature of the Breach is such that it cannot be cured within the right to cure period. The Notice may include an effective Contract cancellation date if the Breach is not cured by the stated date and, unless otherwise modified by the non-breaching party in writing prior to the cancellation date, no further action shall be required of any party to effect the cancellation as of the stated date. If the notice does not set forth an effective Contract cancellation date, then the non-breaching party may cancel the Contract by giving the breaching party no less than twenty four (24) hours' prior written Notice after the expiration of the cure period.
- (b) If the Agency believes that the Contractor has not performed according to the Contract, the Agency may:

- (1) withhold payment in whole or in part pending resolution of the performance issue, provided that the Agency notifies the Contractor in writing prior to the date that the payment would have been due in accordance with the budget;
 - (2) temporarily discontinue all or part of the Services to be provided under the Contract;
 - (3) permanently discontinue part of the Services to be provided under the Contract;
 - (4) assign appropriate State personnel to provide contracted for Services to assure continued performance under the Contract until such time as the contractual Breach has been corrected to the satisfaction of the Agency;
 - (5) require that contract funding be used to enter into a subcontract with a person or persons designated by the Agency in order to bring the program into contractual compliance;
 - (6) take such other actions of any nature whatsoever as may be deemed appropriate for the best interests of the State or the program(s) provided under this Contract or both; or
 - (7) any combination of the above actions.
- (c) The Contractor shall return all unexpended funds to the Agency no later than thirty (30) calendar days after the Contractor receives a demand from the Agency.
- (d) In addition to the rights and remedies granted to the Agency by this Contract, the Agency shall have all other rights and remedies granted to it by law in the event of Breach of or default by the Contractor under the terms of this Contract.
- (e) The action of the Agency shall be considered final. If at any step in this process the Contractor fails to comply with the procedure and, as applicable, the mutually agreed plan of correction, the Agency may proceed with Breach remedies as listed under this section.
- (f) **Non-enforcement Not to Constitute Waiver of Breach.** No waiver of any Breach of the Contract shall be interpreted or deemed to be a waiver of any other or subsequent Breach. All remedies afforded in the Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided in the Contract or at law or in equity. A party's failure to insist on strict performance of any section of the Contract shall only be deemed to be a waiver of rights and remedies concerning that specific instance of performance and shall not be deemed to be a waiver of any subsequent rights, remedies or Breach.

4. Ending the Contractual Relationship; Termination.

- a. This Contract shall remain in full force and effect for the duration of its entire term or until such time as it is terminated earlier by either party or cancelled.
- b. If this Contract is terminated for any reason, cancelled or it expires in accordance with its term, the Contractor shall do and perform all things which the Agency determines to be necessary or appropriate to assist in the orderly cessation of Services it performs under this Contract. In order to complete such transfer and wind down the performance, and only to the extent necessary or appropriate, if such activities are expected to take place beyond the stated end of the Contract term then the Contract shall be deemed to have been automatically extended by the mutual consent of the parties prior to its expiration without any affirmative act of either party, including executing an amendment to the Contract to extend the term, but only until the transfer and winding down are complete.
- c. **Termination.**
 - i. Notwithstanding any provisions in this Contract, the Agency, through a duly authorized employee, may Terminate the Contract whenever the Agency makes a written determination that such Termination is in the best interests of the State. The Agency shall notify the Contractor in writing of Termination pursuant to this section, which notice shall specify the effective date of Termination and the extent to which the Contractor must complete its Performance under the Contract prior to such date.

- ii. The Agency may terminate the Contract at any time without prior notice when the funding for the Contract is no longer available.
- iii. Notwithstanding any provisions in this Contract, the Agency, through a duly authorized employee, may, after making a written determination that the Contractor has breached the Contract, Terminate the Contract in accordance with the provisions in the Breach section of this Contract.
- iv. Notwithstanding any provisions in this Contract, the Agency may immediately terminate or cancel this Contract in the event that the Contractor or any subcontractors becomes financially unstable to the point of threatening its ability to conduct the services required under this Contract, ceases to conduct business in the normal course, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or its assets.
- v. Such Notice of Termination shall be sent in accordance with the Notice provision contained on page 1 of this Contract. Upon receiving the notice from the Agency, the Contractor shall immediately discontinue all services affected in accordance with the notice, undertake all commercially reasonable efforts to mitigate any losses or damages, and deliver to the Agency all Records. The Records are deemed to be the property of the Agency and the Contractor shall deliver them to the Agency no later than thirty (30) days after the Termination of the Contract or fifteen (15) days after the Contractor receives a written request from the Agency for the Records. The Contractor shall deliver those Records that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to, ASCII or .TXT.
- vi. Upon receipt of a written notice of Termination from the Agency, the Contractor shall cease operations as the Agency directs in the notice, and take all actions that are necessary or appropriate, or that the Agency may reasonably direct, for the protection, and preservation of the Goods and any other property. Except for any work which the Agency directs the Contractor to Perform in the notice prior to the effective date of Termination, and except as otherwise provided in the notice, the Contractor shall terminate or conclude all existing subcontracts and purchase orders and shall not enter into any further subcontracts, purchase orders or commitments.
- vii. The Contractor shall return to the Agency any funds not expended in accordance with the terms and conditions of the Contract and, if the Contractor fails to do so upon demand, the Agency may recoup said funds from any future payments owing under this Contract or any other contract between the State and the Contractor. Allowable costs, as detailed in audit findings, incurred until the date of termination or cancellation for operation or transition of program(s) under this Contract shall not be subject to recoupment.
- viii. The Agency shall, within forty-five (45) days of the effective date of Termination, reimburse the Contractor for its Performance rendered and accepted by the Agency in accordance with Part I in addition to all actual and reasonable costs incurred after Termination in completing those portions of the Performance which the notice required the Contractor to complete. However, the Contractor is not entitled to receive and the Agency is not obligated to tender to the Contractor any payments for anticipated or lost profits. Upon request by the Agency, the Contractor shall assign to the Agency, or any replacement contractor which the Agency designates, all subcontracts, purchase orders and other commitments, deliver to the Agency all Records and other information pertaining to its Performance, and remove from State premises, whether leased or owned, all of Contractor's property, equipment, waste material and rubbish related to its Performance, all as the Agency may request.
- ix. For breach or violation of any of the provisions in the section concerning Representations and Warranties, the Agency may Terminate the Contract in accordance with its terms and revoke any consents to assignments given as if the assignments had never been requested or consented to, without liability to the Contractor or Contractor Parties or any third party.

- x. Upon Termination of the Contract, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party, except with respect to the sections which survive Termination. All representations, warranties, agreements and rights of the parties under the Contract shall survive such Termination to the extent not otherwise limited in the Contract and without each one of them having to be specifically mentioned in the Contract.
 - xi. Termination of the Contract pursuant to this section shall not be deemed to be a breach of contract by the Agency.
- d. **Transition after Termination or Expiration of Contract.**
- i. If this Contract is terminated for any reason or it expires in accordance with its term, the Contractor shall do and perform all things which the Agency determines to be necessary or appropriate to assist in the orderly cessation of Services it performs under this Contract. In order to complete such transfer and wind down the performance, and only to the extent necessary or appropriate, if such activities are expected to take place beyond the stated end of the Contract term then the Contract shall be deemed to have been automatically extended by the mutual consent of the parties prior to its expiration without any affirmative act of either party, including executing an amendment to the Contract to extend the term, but only until the transfer and winding down are complete.
 - ii. If this Contract is terminated, cancelled or not renewed, the Contractor shall return to the Agency any equipment, deposits or down payments made or purchased with start-up funds or other funds specifically designated for such purpose under this Contract in accordance with the written instructions from the Agency in accordance with the Notice provision of this Contract. Written instructions shall include, but not be limited to, a description of the equipment to be returned, where the equipment shall be returned to and who is responsible to pay for the delivery/shipping costs. Unless the Agency specifies a shorter time frame in the letter of instructions, the Contractor shall affect the returns to the Agency no later than sixty (60) days from the date that the Contractor receives Notice.

D. Statutory and Regulatory Compliance.

1. **Americans with Disabilities Act.** The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 (<http://www.ada.gov/>) as amended from time to time ("ADA") to the extent applicable, during the term of the Contract. The Agency may cancel or terminate this Contract if the Contractor fails to comply with the ADA. The Contractor represents that it is familiar with the terms of this Act and that it is in compliance with the law. The Contractor warrants that it shall hold the State harmless from any liability which may be imposed upon the state as a result of any failure of the Contractor to be in compliance with this ADA. As applicable, the Contractor shall comply with § 504 of the Federal Rehabilitation Act of 1973, as amended from time to time, 29 U.S.C. § 794 (Supp. 1993), regarding access to programs and facilities by people with disabilities.
 2. **Utilization of Minority Business Enterprises.** The Contractor shall perform under this Contract in accordance with 45 C.F.R. Part 74; and, as applicable, C.G.S. §§ 4a-60 to 4a-60a and 4a-60g to carry out this policy in the award of any subcontracts.
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3. **Non-discrimination.**
 - a. For purposes of this Section, the following terms are defined as follows:
 - i. "Commission" means the Commission on Human Rights and Opportunities;
 - ii. "Contract" and "contract" include any extension or modification of the Contract or contract;
 - iii. "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
 - iv. "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other

evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.

- v. "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
- vi. "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
- vii. "marital status" means being single, married as recognized by the State of Connecticut, widowed, separated or divorced;
- viii. "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;
- ix. "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and
- x. "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

- b.
 - i. The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved;
 - ii. the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission;
 - iii. the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment;
 - iv. the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and
 - v. the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts,

concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.

- c. Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
 - d. The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
 - e. The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes §46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
 - f. The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.
 - g.
 - (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation;
 - (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
 - (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and
 - (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.
 - h. The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
4. **Executive Orders.** This Contract is subject to Executive Order No. 3 of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices; Executive Order No. 17 of Governor Thomas

J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings; Executive Order No. 16 of Governor John G. Rowland, promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and made a part of the Contract as if they had been fully set forth in it. The Contract may also be subject to Executive Order 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services and to Executive Order No. 49 of Governor Dannel P. Malloy, promulgated May 22, 2015, mandating disclosure of certain gifts to public employees and contributions to certain candidates for office. If Executive Order 14 and/or Executive Order 49 are applicable, they are deemed to be incorporated into and are made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the Client Agency or the DAS shall provide a copy of these orders to the Contractor.

5. Freedom of Information.

- (a) Contractor acknowledges that the Agency must comply with the Freedom of Information Act, C.G.S. §§ 1-200 et seq. ("FOIA") which requires the disclosure of documents in the possession of the State upon request of any citizen, unless the content of the document falls within certain categories of exemption, as defined by C.G.S. § 1-210(b).
- (b) **Governmental Function.** In accordance with C.G.S. § 1-218, if the amount of this Contract exceeds two million five hundred thousand dollars (\$2,500,000), and the Contractor is a "person" performing a "governmental function", as those terms are defined in C.G.S. § 1-200(4) and (11), the Agency is entitled to receive a copy of the Records and files related to the Contractor's performance of the governmental function, which may be disclosed by the Agency pursuant to the FOIA.

6. Whistleblowing. This Contract is subject to C.G.S. § 4-61dd if the amount of this Contract is a "large state contract" as that term is defined in C.G.S. § 4-61dd(h). In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the Contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars (\$5,000) for each offense, up to a maximum of twenty per cent (20%) of the value of this Contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state Contractor, as defined in the statute, shall post a notice of the relevant sections of the statute relating to large state Contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.

7. Summary of State Ethics Laws. Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes, the summary of State ethics laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes is incorporated by reference into and made a part of the Contract as if the summary had been fully set forth in the Contract.

8. Campaign Contribution Restrictions. For all State contracts as defined in C.G.S. § 9-612(g) the authorized signatory to this Contract expressly acknowledges receipt of the State Elections Enforcement Commission's ("SEEC") notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice reproduced below:

http://www.ct.gov/seec/lib/seec/forms/contractor_reporting/seec_form_11_notice_only.pdf

CONNECTICUT STATE ELECTIONS ENFORCEMENT COMMISSION
Rev. 1/11
Page 1 of 2



Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations

This notice is provided under the authority of Connecticut General Statutes §9-612(g)(2), as amended by P.A. 10-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (*italicized words are defined on the reverse side of this page*).

CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

No state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee (which includes town committees).

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

On and after January 1, 2011, no state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall knowingly solicit contributions from the state contractor's or prospective state contractor's employees or from a subcontractor or principals of the subcontractor on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

DUTY TO INFORM

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

PENALTIES FOR VIOLATIONS

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—Up to \$2,000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of up to \$2,000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or not more than \$5,000 in fines, or both.

CONTRACT CONSEQUENCES

In the case of a state contractor, contributions made or solicited in violation of the above prohibitions may result in the contract being voided.

In the case of a prospective state contractor, contributions made or solicited in violation of the above prohibitions shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State shall not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information may be found on the website of the State Elections Enforcement Commission, www.ct.gov/seec. Click on the link to "Lobbyist/Contractor Limitations."



DEFINITIONS

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 43-160. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan, a loan to an individual for other than commercial purposes or any agreement or contract between the state or any state agency and the United States Department of the Navy or the United States Department of Defense.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

"Subcontractor" means any person, business entity or nonprofit organization that contracts to perform part or all of the obligations of a state contractor's state contract. Such person, business entity or nonprofit organization shall be deemed to be a subcontractor until December thirty first of the year in which the subcontract terminates. "Subcontractor" does not include (i) a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or (ii) an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a subcontractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a subcontractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a subcontractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a subcontractor, which is not a business entity, or if a subcontractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any subcontractor who has *managerial or discretionary responsibilities with respect to a subcontract with a state contractor*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the subcontractor.

9. Health Insurance Portability and Accountability Act of 1996.

- (a) If the Contactor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as noted in this Contract, the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
- (c) The State of Connecticut Agency named on page 1 of this Contract ("Agency") is a "covered entity" as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor is a "business associate" of the Agency, as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor and the Agency agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), (Pub. L. 111-5, §§ 13400 to 13423), and more specifically with the Privacy and Security Rules at 45 C.F.R. parts 160 and 164, subparts A, C, and E (collectively referred to herein as the "HIPAA Standards").
- (f) Definitions
- (1) "Breach" shall have the same meaning as the term is defined in 45 C.F.R. § 164.402 and shall also include a use or disclosure of PHI that violates the HIPAA Standards.
 - (2) "Business Associate" shall mean the Contractor.
 - (3) "Covered Entity" shall mean the Agency of the State of Connecticut named on page 1 of this Contract.
 - (4) "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.
 - (5) "Electronic Health Record" shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. § 17921(5)).
 - (6) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
 - (7) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
 - (8) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, and includes electronic PHI, as defined in 45 C.F.R. § 160.103, limited to information created, maintained, transmitted or received by the Business Associate from or on behalf of the Covered Entity or from another Business Associate of the Covered Entity.
 - (9) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
 - (10) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
 - (11) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
 - (12) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.
 - (13) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.
 - (14) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subpart A and C.
 - (15) "Unsecured protected health information" shall have the same meaning as the term as defined in 45 C.F.R. § 164.402.
- (g) Obligations and Activities of Business Associates.
- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
 - (2) Business Associate agrees to use and maintain appropriate safeguards and comply with applicable HIPAA Standards with respect to all PHI and to prevent use or disclosure of PHI other than as provided for in this Section of the Contract and in accordance with HIPAA Standards.

- (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
- (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
- (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
- (6) Business Associate agrees in accordance with 45 C.F.R. § 502(e)(1)(ii) and § 164.308(d)(2), if applicable, to ensure that any subcontractor that creates, receives, maintains or transmits PHI on behalf of the Business Associate agrees to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such information.
- (7) Business Associate agrees to provide access (including inspection, obtaining a copy or both), at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524. Business Associate shall not charge any fees greater than the lesser of the amount charged by the Covered Entity to an Individual for such records; the amount permitted by state law; or the Business Associate's actual cost of postage, labor and supplies for complying with the request.
- (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner designated by the Covered Entity.
- (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created, maintained, transmitted or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary investigating or determining Covered Entity's compliance with the HIPAA Standards.
- (10) Business Associate agrees to document such disclosures of PHI and 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 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (11) Business Associate agrees to provide to Covered Entity, in a time and manner designated by the Covered Entity, information collected in accordance with subsection (g)(10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an Individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. §§ 164.504(e), 164.308, 164.310, 164.312, and 164.316.
- (14) In the event that an Individual requests that the Business Associate
 - (A) restrict disclosures of PHI;
 - (B) provide an accounting of disclosures of the Individual's PHI;
 - (C) provide a copy of the Individual's PHI in an electronic health record; or
 - (D) amend PHI in the Individual's designated record set
 the Business Associate agrees to notify the Covered Entity, in writing, within five (5) business days of the request.
- (15) Business Associate agrees that it shall not, and shall ensure that its subcontractors do not, directly or indirectly, receive any remuneration in exchange for PHI of an Individual without
 - (A) the written approval of the Covered Entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract; and
 - (B) the valid authorization of the Individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act, (42 U.S.C. § 17935(d)(2)) and in any accompanying regulations
- (16) Obligations in the Event of a Breach.

- (A) The Business Associate agrees that, following the discovery by the Business Associate or by a subcontractor of the Business Associate of any use or disclosure not provided for by this section of the Contract, any breach of unsecured PHI, or any Security Incident, it shall notify the Covered Entity of such breach in accordance with Subpart D of Part 164 of Title 45 of the Code of Federal Regulations and this Section of the Contract.
- (B) Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than thirty (30) days after the breach is discovered by the Business Associate, or a subcontractor of the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to 45 C.F.R. § 164.412. A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate or its subcontractor. The notification shall include the identification and last known address, phone number and email address of each Individual (or the next of kin of the Individual if the Individual is deceased) whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
- (C) The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
1. A description of what happened, including the date of the breach; the date of the discovery of the breach; the unauthorized person, if known, who used the PHI or to whom it was disclosed; and whether the PHI was actually acquired or viewed.
 2. A description of the types of unsecured PHI that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
 3. The steps the Business Associate recommends that Individual(s) take to protect themselves from potential harm resulting from the breach.
 4. A detailed description of what the Business Associate is doing or has done to investigate the breach, to mitigate losses, and to protect against any further breaches.
 5. Whether a law enforcement official has advised the Business Associate, either verbally or in writing, that he or she has determined that notification or notice to Individuals or the posting required under 45 C.F.R. § 164.412 would impede a criminal investigation or cause damage to national security and; if so, include contact information for said official.
- (D) If directed by the Covered Entity, the Business Associate agrees to conduct a risk assessment using at least the information in subparagraphs 1 to 4 inclusive, of (g)(16)(C) of this Section and determine whether, in its option, there is a low probability that the PHI has been compromised. Such recommendation shall be transmitted to the Covered Entity within twenty (20) business days of the Business Associate's notification to the Covered Entity.
- (E) If the Covered Entity determines that there has been a breach, as defined in 45 C.F.R. § 164.402, by the Business Associate or a subcontractor or the Business Associate, if directed by the Covered Entity, shall provide all notifications required by 45 C.F.R. §§ 164.404 and 164.406.
- (F) Business Associate agrees to provide appropriate staffing and have established procedures to ensure that Individuals informed of a breach have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site and a postal address. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.
- (G) Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.

(h) Permitted Uses and Disclosure by Business Associate.

- (1) General Use and Disclosure Provisions. Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the HIPAA Standards if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

- (2) Specific Use and Disclosure Provisions

- (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
 - (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
 - (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide data aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
- (i) Obligations of Covered Entity.
- (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
 - (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual(s) to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
 - (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- (j) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Standards if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.
- (k) Term and Termination.
- (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with provision (g)(10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
 - (2) Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
 - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
 - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
 - (3) Effect of Termination.
 - (A) Except as provided in (k)(2) of this Section of the Contract, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with section (g)(10) of this Section of the Contract to the Covered Entity within ten (10) business days of the notice of termination. This section shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
 - (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return

or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

(l) Miscellaneous Sections.

- (1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
- (2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- (3) Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.
- (4) Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
- (5) Construction. This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
- (6) Disclaimer. Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the sections of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
- (7) Indemnification. The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, and the HIPAA Standards.

Original Contract
 Amendment # _____
(For Internal Use Only)

IN WITNESS WHEREOF, the parties have executed this Contract by their duly authorized representatives with full knowledge of and agreement with its terms and conditions.

SIGNATURES AND APPROVALS

The Contractor IS a Business Associate under the Health Insurance Portability and Accountability Act of 1996 as amended.


CONTRACTOR - PUBLIC CONSULTING GROUP, INC.


SIGNATURE OF AUTHORIZED SIGNATORY

3 / 22 / 17
Date

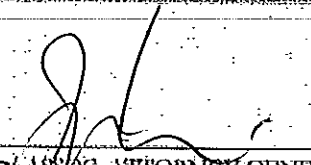
William S. Mosakowski, President and CEO
PRINTED NAME OF AUTHORIZED SIGNATORY

OFFICE OF EARLY CHILDHOOD


PIETRO ROSATO, Director of Business Operations

3 / 23 / 17
Date

CONNECTICUT ATTORNEY GENERAL


ASST. ASSOC. ATTORNEY GENERAL (Approved as to form)
Joseph Rubin

3 / 28 / 17
Date