

STATE OF VERMONT CONTRACT SUMMARY AND CERTIFICATION ----- Form AA-14 (1/8/2019)

Note: All sections must be completed. Incomplete forms will be returned to the originating department.

I. CONTRACT INFORMATION:

Agency/Department: Green Mountain Care Board/ Contract #: 39297 Amendment #:
 Vendor Name: Bailit Health Purchasing, LLC VISION Vendor No: 12256
 Vendor Address: 56 Pickering Street, Needham, MA 02492
 Starting Date: 11/15/19 Ending Date: 11/14/2021 Amendment Date:
 Summary of agreement or amendment: Technical assistance to implement All-Payer ACO Agreement

II. FINANCIAL & ACCOUNTING INFORMATION

Maximum Payable: \$200,000.00 Prior Maximum: \$ Prior Contract # (If Renewal):
 Current Amendment: \$ Cumulative amendments: \$ % Cumulative Change:
 Business Unit(s): 3330; ; - [notes:] VISION Account(s): ;
 Estimated Funding Split:

40.00	% GF	60.00	% SF		% EF		% Other
	% TF		% GC		% FF		(name)

III. PROCUREMENT & PERFORMANCE INFORMATION

A. Identify applicable procurement process utilized.
 Standard Bid/RFP Simplified Sole Source (See B.) Qualification Based Selection Statutory
 B. If Sole Source Contract, contract form includes self-certification language? Yes N/A
 C. Contract includes performance measures/guarantees to ensure the quality and/or results of the service? Yes No

IV. TYPE OF AGREEMENT (select all that apply)

Personal Service Construction Arch/Eng. Marketing Info. Tech. Prof. Service
 Non-Personal Service Retiree/Former SOV EE Financial Trans Zero-Dollar Privatization Other
 Commodity

V. SUITABILITY FOR CONTRACT FOR SERVICE

Yes No n/a Does this contract meet the determination of an Independent Contractor? If "NO", the contractor must be set up and paid on payroll through the VTHR system.

VI. CONTRACTING PLAN APPLICABLE

Is any element of this contract subject to a pre-approved Agency/Dept. Contracting Waiver Plan? Yes No

VII. CONFLICT OF INTEREST

By signing below, I (Agency/Dept. Head) certify that no person able to control or influence award of this contract had a pecuniary interest in its award or performance, either personally or through a member of his or her household, family, or business.

Yes No Is there an "appearance" of a conflict of interest so that a reasonable person may conclude that this party was selected for improper reasons: (If yes, explain)

VIII. PRIOR APPROVALS REQUIRED OR REQUESTED

Yes No Agreement must be Certified by the Attorney General under 3 V.S.A. § 342 (sign line #4 below)
 Yes No Attorney General review As To Form is required (\$25,000 and above) or otherwise requested: _____ (AAG initial)
 Yes No Agreement must be approved by the Secretary of ADS/CIO
 Yes No Agreement must be approved by the CMO: for Marketing services over \$25,000
 Yes No Agreement must be approved by Comm. Human Resources: for Privatization, Retirees, Former Employees, & if a Contract fails the IRS test.
 Yes No Agreement must be approved by the Secretary of Administration

IX. AGENCY/DEPARTMENT HEAD CERTIFICATION; APPROVAL

I have made reasonable inquiry as to the accuracy of the above information (sign in order):

1-Date	1-Agency/Department Head		2-Date	2-Agency Secretary (if required)	
3a-Date	3a-CIO	3b-Date	3b-CMO	3c-Date	3c-Commissioner DHR
4-Date	4-Attorney General		5-Date	5-Secretary of Administration	

STANDARD CONTRACT FOR SERVICES

1. **Parties.** This is a contract for services between the State of Vermont, Green Mountain Care Board (hereinafter called “State”), and Bailit Health Purchasing, LLC, with a principal place of business in 56 Pickering Street, Needham, MA 02492, (hereinafter called “Contractor”). Contractor’s form of business organization is a Limited Liability Company. It is Contractor’s responsibility to contact the Vermont Department of Taxes to determine if, by law, Contractor is required to have a Vermont Department of Taxes Business Account Number.
2. **Subject Matter.** The subject matter of this contract is services generally on the subject of health care reform consulting and technical assistance needed to implement the Vermont All-Payer Accountable Care Organization Agreement. Detailed services to be provided by Contractor are described in Attachment A.
3. **Maximum Amount.** In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$200,000.00.
4. **Contract Term.** The period of Contractor’s performance shall begin on November 15, 2019 and end on November 14, 2021, with the potential for up to two one-year extensions at the option of the State.
5. **Prior Approvals.** This Contract shall not be binding unless and until all requisite prior approvals have been obtained in accordance with current State law, bulletins, and interpretations.
6. **Amendment.** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.
7. **Termination for Convenience.** This contract may be terminated by the State at any time by giving written notice at least thirty (30) days in advance. In such event, Contractor shall be paid under the terms of this contract for all services provided to and accepted by the State prior to the effective date of termination.
8. **Attachments.** This contract consists of 17 pages including the following attachments which are incorporated herein:
 - Attachment A - Statement of Work (includes two Appendices)
 - Appendix 1: Monthly Work Plan
 - Appendix 2: Project Order Form
 - Attachment B - Payment Provisions
 - Attachment C - “Standard State Provisions for Contracts and Grants” a preprinted form (revision date 12/15/2017)
 - Attachment D – “Other Contract Provisions”

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

- (1) Attachment A - Statement of Work (includes two Appendices)
 - Appendix 1: Monthly Work Plan
 - Appendix 2: Project Order Form
- (2) Attachment B - Payment Provisions
- (3) Attachment C – “Standard State Provisions for Contracts and Grants” a preprinted form (revision date 12/15/2017)
- (4) Attachment D – “Other Contract Provisions”

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT

By the State of Vermont:

Bailit Health:

Date: _____

Date: _____

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

ATTACHMENT A – STATEMENT OF WORK

Background

The Vermont All-Payer Accountable Care Organization Model (“All-Payer ACO Model” or “APM”) Agreement (the “Agreement”) was signed on October 26, 2016 by Vermont’s Governor, Secretary of Human Services, Chair of the Green Mountain Care Board, and the Centers for Medicare and Medicaid Services (CMS). The All-Payer Model aims to reduce health care cost growth by moving away from fee-for-service reimbursement to risk-based arrangements for Accountable Care Organizations (ACOs); these arrangements are tied to quality and health outcomes.

Requirements

The Contractor shall provide consulting services and technical support to the State to implement the Agreement. The Contractor will perform work in the following areas, as described in more detail below:

1. Policy Development
2. Technical Assistance
3. Negotiation Consultation and Management
4. Preparation, Version Management and Submission of Required Documents
5. Ad Hoc

Within each of these areas, the Contractor will perform work as requested by the State and as set forth in a Monthly Work Plan (Attachment A, Appendix 1) or Project Order Form (Attachment A, Appendix 2).

Tasks

1. Policy Development

The Contractor shall assist the State with policy development, as required by the terms of the Agreement. Work may include:

- a. research and analysis informed by the Contractor’s knowledge and expertise on payment and delivery system reform models in other states, as well as those being tested by the Center for Medicare and Medicaid Innovation (CMMI);
- b. developing options for delivery system transformation, which may include analyzing regulatory frameworks from Vermont and other states relating to health care providers, participating in payment reform programs, and developing policy options based on this analysis; and
- c. recommendations for implementation of specific policies or programs for successful execution of the Agreement.

2. Technical Assistance

The Contractor shall provide technical assistance to support the State’s decision-making process, as needed, such as assistance with interpretation of Agreement requirements; assistance with analysis of federal programs, existing or new, and their interaction with or impact on the Agreement; and development of decision making support tools for managing within the Agreement’s terms. This may include, but is not limited to:

- a. financial modeling and actuarial analysis for transitioning from a fee-for-service health care payment structure to a value-based payment system;
- b. developing strategies and recommendations for Accountable Care Organization (ACO) oversight;
- c. providing quality and financial measurement expertise.

3. Negotiation, Consultation, and Management

As necessary, the Contractor shall advise the State on negotiating program design features with CMMI for the current or renewed Agreement. This work may include:

- a. preparing decision points and tracking proposals, as well as verifying verbal communications in writing;
- b. preparing for scheduled meetings with CMMI or other federal agencies; and
- c. facilitating post-meeting debriefings with State agencies to identify appropriate next steps.

4. Preparation, Version Management, and Submission of Required Documents for Program Design or Modifications

The Contractor shall assist the State in organizing and assembling necessary forms, documentation, or attestation for the Vermont Medicare ACO Initiative. The Contractor may serve as general editor of final written documents and must ensure that all relevant attachments are included. Because modifications are required to achieve the goals of the All-Payer Model, the Contractor shall track such modifications against the Agreement as signed 10/26/16.

5. Meetings

The Contractor will schedule regular and ad hoc meetings to discuss progress with State staff and State-identified key partners, provide written draft products for State review and feedback, and incorporate State feedback into final written products to the satisfaction of the State. If requested, the Contractor will participate in State meetings as attendees, presenters, or facilitators.

6. Ad Hoc Tasks

At the request of the State, the Contractor shall perform ad hoc tasks necessary to support the State's implementation of the Agreement. Ad hoc tasks may include, for example, assisting the State with developing alternative payment models for the risk-bearing ACO, providers within the ACO (e.g., hospitals, federally qualified health centers, physician-owned practices, specialists, etc.), and providers outside of the ACO.

Authorization of Work:

All work must be reviewed and accepted in writing by the State Authorized Representative in a signed Monthly Work Plan or Project Order Form before the Contractor may initiate the work. Changes to a signed Monthly Work Plan or Project Order Form must be agreed to by both parties and reflected in a revised form.

1. Monthly Work Plan: The Monthly Work Plan (Appendix 1 of Attachment A) will be used to detail the work that the Contractor will perform each month. The Contractor shall submit a Monthly Work Plan (Attachment A, Appendix 1) at least 15 days prior to the start of each month that describes the work plans to perform in each of the tasks described above, including any work agreed to in a Project Order Form, the estimated number of hours to be spent on the work, deliverables associated with the work, and the date the deliverable is due or the work will be completed.

The Contractor shall attach to each invoice the signed Monthly Work Plan for that period after completing the following columns: "List Work Product Attached," "Actual Cost," and "Notes Re: Any Variance from Estimate." The Contractor shall also describe progress on each major project worked on during that period.

The Contractor shall submit a final report upon completion of the Contract within 30 days of the contract ending.

2. **Project Orders Form:** The Project Order Form (Appendix 2 of Attachment A) will be used to detail specific projects within the tasks described above. Each Project Order Form must include a scope of work; a project timeline and/or full workplan (as needed); deliverables; and a cost estimate. For each contemplated project, the Contractor will arrange a phone call with relevant State staff and other key partners as identified by the State to discuss these subjects and agree on an approach to the work.

Monthly Work Plans and Project Order Forms may not be used to modify the scope of services or otherwise change the terms of this Contract and shall not be used in lieu of the amendment process where an amendment is required.

Monthly Work Plans and Project Order Forms shall be submitted to the State Authorized Representative. The State Authorized Representative for this Contract is:

Alena Berube
Director of Value Based Programs and ACO Regulation
Alena.Berube@vermont.gov
(802) 272-5599

Staffing Requirements:

The following “key personnel” of the Contractor are considered to be essential to the performance of this contract:

- Michael Bailit, President

At least 30 days prior to diverting any of the key personnel to other programs or contracts (or as soon as possible, if an individual must be replaced, for example, as a result of leaving the employ of the Contractor), the Contractor shall notify the State Authorized Representative project manager and shall submit a comprehensive justification for the diversion or replacement request (including proposed substitutions for key personnel) to permit evaluation by the State of the impact on performance under this contract. The Contractor shall not divert or otherwise replace any key personnel without the written consent of the State Authorized Representative.

**Attachment A, Appendix 1
Monthly Work Plan
___ for ___ [month] ___ [year]**

Contractor	
Contract #	
Estimated Cost for All Tasks (Month)	

Contract Task #	Summary Scope of Work	Description of Deliverable(s)	Deliverable Due Date	Project Plan # (if applicable)	Estimated Hours and Cost	Actual Cost*	Notes Re: Variance from Cost Estimate*	List work product attached

Staff Assigned and Projected Hours Required:

<i>Title/Role</i>	<i>Hourly Rate</i>	<i>Est. Hours</i>	<i>Total Price</i>

Signatures:

Bailit Health		
Plan Approval Signature		Date
*Actual Approval Signature		Date
State of Vermont		
Plan Approval Signature		Date
*Actual Approval Signature		Date

**Attachment A, Appendix 2
Project Order Form**

Task #:

Project Title:
Project Plan #:

Background:

Objective:

Scope:

Project Timeline:

Deliverable(s):

<i>Deliverable</i>	<i>Delivery Date</i>	<i>Total Not to Exceed Price</i>

The State shall have 10 business days to complete its review of the deliverables. The State shall accept or reject the deliverables in writing. In the event of the State’s rejection of any deliverable, the Contractor shall be notified in writing by the State Authorized Representative, providing specific reason(s) for rejection. The Contractor shall have 10 business days to correct the rejected deliverable and return it to the State.

Staff Assigned and Projected Hours Required:

<i>Title/Role</i>	<i>Hourly Rate</i>	<i>Est. Hours</i>	<i>Total Not to Exceed Price</i>

Signatures:

Bailit Health			
Approval Signature		Date	
State of Vermont			
Approval Signature		Date	

ATTACHMENT B – PAYMENT PROVISIONS

The maximum dollar amount payable under this contract is not intended as any form of a guaranteed amount. The Contractor will be paid for products or services actually delivered or performed, as specified in Attachment A, up to the maximum allowable amount specified on page 1 of this contract.

1. Prior to commencement of work and release of any payments, Contractor shall submit to the State:
 - a. a certificate of insurance consistent with the requirements set forth in Attachment C, Section 8 (Insurance), and with any additional requirements for insurance as may be set forth elsewhere in this contract (i.e., the professional liability insurance requirements in Section 9 of the Standard Contract for Services); and
 - b. a current IRS Form W-9 (signed within the last six months).
2. Payment terms are **Net 30** days from the date the State receives an error-free invoice with all necessary and complete supporting documentation.
3. Contractor shall submit detailed invoices itemizing all work performed during the invoice period by task, including the dates of service, rates of pay, hours of work performed, and any other information and/or documentation appropriate and sufficient to substantiate the amount invoiced for payment by the State, as described further below. All invoices must include the Contract # for this contract.
4. Invoices shall be submitted to the State at the following address:

gmc.b.invoice@vermont.gov or
Green Mountain Care Board
144 State Street
Montpelier, VT 05602
5. The payment schedule for delivered products, or rates for services performed, and any additional reimbursements will be detailed and agreed to in the Monthly Work Plan or Project Order Form.
6. The Contractor will be paid based on documentation and itemization of work performed and included in invoicing as required by 32 V.S.A. § 463. On a monthly basis the Contractor shall submit a detailed invoice to the State for all work performed during the invoice period, by task, as outlined in the approved corresponding Monthly Work Plan. Each invoice must include the Contract # for this Contract, a unique invoice number, dates of service, itemized billing by task which is documented to reflect itemized hours by assigned staff multiplied by hourly rates for agreed upon work, and updated Monthly Work Plans, as specified in Attachment A.
7. The timing for transfer, reassignment or replacement of Contractor Personnel will be coordinated with requirements for timing and other elements of the Services so as to maintain continuity in the performance of the Services and avoid interruption or disruption to the Services or any failures to maintain Service Levels.

The fully inclusive hourly rates of the assigned staff of the Contractor are:

Bailit Hourly Rates

Staff	Hourly Rate
Senior Consultant I	\$265
Senior Consultant II	\$170
Consultant	\$124

8. Payments for subcontractors, if any, will only be made upon approval (See Attachment C, #15).
9. Payments to the Contractor relating to this contract as outlined in the scope by work will be rendered only after review and acceptance from the State's Authorized Representative.
10. The Contractor agrees to a 10% retainage of the total contract fee subject to review, approval, and acceptance of Contractor's final report by the State. The State shall determine retainage, including any withholding or proration, of the total contract fee by deciding whether the Contractor's performance has met, to the State's satisfaction, the Contractor's requirements under Attachment A. Upon the state's acceptance of the final report, the Contractor shall submit a retainage statement to request any funds withheld.

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

1. Definitions: For purposes of this Attachment, “Party” shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean the specific contract or grant to which this form is attached.

2. Entire Agreement: This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.

3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial: This Agreement will be governed by the laws of the State of Vermont. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement. The Party agrees that it must first exhaust any applicable administrative remedies with respect to any cause of action that it may have against the State with regard to its performance under this Agreement. Party agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.

4. Sovereign Immunity: The State reserves all immunities, defenses, rights or actions arising out of the State’s sovereign status or under the Eleventh Amendment to the United States Constitution. No waiver of the State’s immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of the State’s entry into this Agreement.

5. No Employee Benefits For Party: The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the State withhold any state or Federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.

6. Independence: The Party will act in an independent capacity and not as officers or employees of the State.

7. Defense and Indemnity: The Party shall defend the State and its officers and employees against all third party claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party in connection with the performance of this Agreement. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The State retains the right to participate at its own expense in the defense of any claim. The State shall have the right to approve all proposed settlements of such claims or suits.

After a final judgment or settlement, the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party in connection with the performance of this Agreement.

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

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

8. Insurance: Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State through the term of this Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont. Vermont will accept an out-of-state employer's workers' compensation coverage while operating in Vermont provided that the insurance carrier is licensed to write insurance in Vermont and an amendatory endorsement is added to the policy adding Vermont for coverage purposes. Otherwise, the party shall secure a Vermont workers' compensation policy, if necessary to comply with Vermont law.

General Liability and Property Damage: With respect to all operations performed under this Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations

Products and Completed Operations

Personal Injury Liability

Contractual Liability

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

\$1,000,000 Each Occurrence

\$2,000,000 General Aggregate

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

\$1,000,000 Personal & Advertising Injury

Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than \$500,000 combined single limit. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, limits of coverage shall not be less than \$1,000,000 combined single limit.

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

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

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

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

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

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

13. Records Available for Audit: The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

14. Fair Employment Practices and Americans with Disabilities Act: Party agrees to comply with the requirement of 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement.

15. Set Off: The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

16. Taxes Due to the State:

- A. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
- B. Party certifies under the pains and penalties of perjury that, as of the date this Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.

- C. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
- D. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

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

18. Child Support: (Only applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date this Agreement is signed, he/she:

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

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

19. Sub-Agreements: Party shall not assign, subcontract or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party shall be responsible and liable to the State for all acts or omissions of subcontractors and any other person performing work under this Agreement pursuant to an agreement with Party or any subcontractor.

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

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 12 ("Location of State Data"); Section 14 ("Fair Employment Practices and Americans with Disabilities Act"); Section 16 ("Taxes Due the State"); Section 18 ("Child Support"); Section 20 ("No Gifts or Gratuities"); Section 22 ("Certification Regarding Debarment"); Section 30 ("State Facilities"); and Section 32.A ("Certification Regarding Use of State Funds").

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

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

22. Certification Regarding Debarment: Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or

partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in Federal programs, or programs supported in whole or in part by Federal funds.

Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing/debarment>

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

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

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

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

27. Termination:

- A. Non-Appropriation:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by Federal funds, and in the event Federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.
- B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party's notice or such longer time as the non-breaching party may specify in the notice.
- C. Termination Assistance:** Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

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

29. No Implied Waiver of Remedies: Either party's delay or failure to exercise any right, power or remedy under this Agreement shall not impair any such right, power or remedy, or be construed as a waiver of any such right, power or remedy. All waivers must be in writing.

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

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

A. Requirement to Have a Single Audit: The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

B. Internal Controls: In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

C. Mandatory Disclosures: In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

32. Requirements Pertaining Only to State-Funded Grants:

A. Certification Regarding Use of State Funds: If Party is an employer and this Agreement is a State-funded grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.

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

(End of Standard Provisions)

**ATTACHMENT D
OTHER CONTRACT PROVISIONS**

1. Confidentiality. In the course of performing the services described in this contract, Contractor may receive or have access to records or other information that are exempt from public disclosure under the Vermont Public Records Act, 1 V.S.A. § 315 et seq. (“State Data”). Contractor agrees that (a) it will use State Data only as may be necessary to perform duties or exercise rights under this Contract; (b) it will use, at a minimum, the same care to avoid unauthorized use or disclosure of State Data as it uses to protect its own similar confidential and proprietary information, and will take reasonable measures to restrict access to State Data to those employees who must have the data to perform their duties under this contract; (c) it will not disclose State Data in any manner or form to a third party (including any parent company or affiliate) unless it has received written approval from the State and unless the third party is subject to a written confidentiality agreement that is acceptable to the State and that contains restrictions and safeguards at least as restrictive as those contained in this contract; and (d) it will not appropriate State Data to its own use or the use of any other person or entity and it will not retain such data longer than necessary to perform the services under this contract. Contractor agrees to promptly notify the State’s authorized representative in writing in the event Contractor determines or has reason to suspect there has been a breach of the requirements. Contractor also agrees to promptly notify the State of any request or demand by a court, governmental agency, or other person for State Data held by Contractor or a third party to which Contractor has provided State Data.
2. Obligations Regarding Protected Information. Contractor shall assure compliance by the State and Contractor of any and all obligations the State or Contractor may have under HIPAA and any other applicable state or federal law regarding protected health, personal, or otherwise protected information.
3. Security. Contractor shall maintain security and confidentiality policies and procedures consistent with industry standards with regard to the information obtained from regulated entities. Contractor shall have recovery procedures in place to handle replacement of data in the event of a disaster.
4. Conflicts of Interest. If the State determines that a conflict of interest, as defined by the State, exists between a regulated entity and a member or members of the Contractor’s staff, the Contractor shall substitute similarly qualified individuals for the conflicted members. If the State determines that a conflict of interest, as determined by the State, exists between Contractor and a regulated entity, the State may immediately remove that assignment from the Contractor, or may invoke its right to terminate this contract pursuant to paragraph 7 on page 1 of this contract. The State reserves the right to make the ultimate determination as to whether a conflict of interest exists.
5. Intellectual Property/Work Product Ownership. All data, technical information, materials first gathered, originated, developed, prepared, or obtained as a condition of this agreement and used in the performance of this agreement—including, but not limited to all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and printouts, notes and memoranda, written procedures and documents, which are prepared for or obtained specifically for this agreement, or are a result of the services required under this grant—shall be considered “work for hire” and remain the property of the State of Vermont, regardless of the state of completion, unless otherwise specified in this agreement. Such items shall be delivered to the State of Vermont upon 30 days notice by the State. With respect to software computer programs and/or source codes first developed for the State, all the work shall be considered “work for hire,” i.e., the State, not the Contractor, shall have full and complete ownership of all software computer programs, documentation and/or source codes developed.

The Contractor shall not sell or copyright a work product or item produced under this agreement without explicit permission from the State. If the Contractor is operating a system or application on behalf of the State of Vermont, then the Contractor shall not make information entered into the system or application available for uses by any other party than the State of Vermont, without prior authorization by the State. Nothing herein shall entitle the State to pre-existing Contractor's materials.

6. Professional Liability Insurance Obligation. With respect to all operations performed under the contract, the Contractor shall carry professional liability insurance.

The policy limits shall not be less than:

\$1,000,000 Per Occurrence
\$1,000,000 Aggregate

The Contractor shall provide a certificate of insurance to show that the above coverage and minimum limits are in effect before commencing work on this contract and shall ensure that it maintains a current such certificate of insurance on file with the State throughout the term of this contract.

(End of Other Contract Provisions)