



STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES

CONTRACT AMENDMENT

Contractor: HEWLETT-PACKARD
Contractor Address: 195 SCOTT SWAMP ROAD, FARMINGTON, CT 06032
Contract Number: 052EDS-MOP-01 / 05DSS6701IW
Amendment Number: A7
Amount as Amended: \$192,809,441.00
Contract Term as Amended: 08/17/05 - 09/30/16

The contract between Hewlett-Packard (the Contractor or HPES) and the Department of Social Services (the Department), which was last executed by the parties and approved by the Office of the Attorney General on 07/03/2013, is hereby further amended as follows:

1. The total maximum payable under this contract is increased by \$51,510,171.00 from \$141,299,270.00 to \$192,809,441.00.
2. Pursuant Section 1, subsection 1.4 (b) titled CONTRACT PERIOD of the original agreement, the Department has elected to exercise two (2) of the three (3), one-year contract extensions, extending the Contract through September 30, 2016.
3. Pursuant to Section 1.5 of the original contract the parties agreed to system modifications contained in memo(s): (1) Dated May 28, 2013, titled SSA DEATH MASTER FILE BILLING AGREEMENT; and (2) Signed March 31, 2014, titled ACCESS HEALTH CT MEDICAID ELIGIBILITY CALL CENTER AGREEMENT- each requiring modifications allowable as a part of the Maintenance and Modifications Task support, which do not require formal contract amendment. The modifications within these memos are hereby rescinded and replaced.
4. Part 1, Section 7.A, titled MODIFICATION OF CONTRACT TRANSACTION VOLUMES in Amendment (6) shall be modified to accurately reflect that the Contractor and the Department jointly agree to extend the Modification of Contract Transaction Volumes for the agreement's extension period.
5. Part 1, Section 7.A, titled MODIFICATION OF CONTRACT TRANSACTION VOLUMES in Amendment (6), will be modified to reflect the pricing schedule found in Exhibit A and will be carried forward for the Contract extension period.

Pricing Schedule	Description
2h-part 1 2i-part 1	Pharmacy claims
2h-part 2 2i-part 2	Non pharmacy claims
2h-part 4 2i-part 4	Pharmacy Prior Authorization
2h-part 6 2i-part 6	E-prescribing eligibility

6. Part 1, Section 18. A, in Amendment Two (2) is amended, in part, to extend the HUSKY B program and First Data Bank annual pricing schedule to carry forward the October 2013-September 2014 annual fee of \$82,000. The fee will be billed monthly. The Department funds will be paid utilizing the following schedule:

February 2008-September 2008	\$120,000
October 2008-September 2009	\$147,000
October 2009-September 2010	\$150,000
October 2010-September 2011	\$153,000
October 2011-September 2012	\$156,000
October 2012-September 2013	\$160,000
October 2013-September 2014	\$164,000
October 2014-September 2015	\$82,000
October 2014-September 2016	\$82,000

7. Part 1, Section 6. J. in Amendment Six (6) , is deleted in its entirety and replaced with the following:

Using the MMIS contract invoice process, the Department will be billed for upfront and on-going shared infrastructure fees. For the upfront purchases and the installation/configuration of the leveraged environment, the Department will be invoiced during the implementation period upon acceptance of the design. For on-going maintenance and hosting charges, the Department will be billed monthly after system go live, using the MMIS contract invoicing process. The following table documents the infrastructure fees.

FIPES and the Department jointly agree to extend the ACA 1104 leveraged infrastructure hosting and maintenance pricing agreement.

CT Infrastructure Fees	
*Ongoing monthly hosting and maintenance fee @ \$9,500/month for 12 months (10/2014 - 9/2015)	\$114,000.00
*Ongoing monthly hosting and maintenance fee @ \$9,500/month for 12 months (10/2015 - 9/2016)	\$114,000.00
Total Ongoing Maintenance Fees for 12 Month Period	\$228,000.00

8. Pursuant to Section 1, Subsection 1.5 (a), titled GENERAL CONTRACT PROVISIONS of the original agreement, The Contract may make additional services available to the Department on a time and materials, per diem, or other mutually acceptable financial basis as negotiated by project or activity. These activities are anticipated to be in support of the state health care initiatives, and may include clerical support to eliminate

state backlogs and outreach efforts. The Contractor and the Department understand that these additional services may include funding from state only programs or grants.”

Pursuant to Section 1, Subsection 1.5(d), titled GENERAL CONTRACT PROVISIONS of the original agreement, the Department permits the expansion of the scope of work covered by the contract or additional compensation in excess of the amount set forth... [if the request] may be based on new requirements resulting from changes in State or Federal regulations and may require enhanced Federal funding support to implement. In general, changes requiring system modifications shall be performed by the Contractor as part of the Maintenance and Modifications Task support and shall not require a contract amendment or additional funding.

A memo dated May 28, 2013; Subject titled, SSA DEATH MASTER FILE BILLING AGREEMENT, was written by Greg Jackson, the Contractor's Account Executive, to Mark Heuschkel, the Department's Executive Medical Administration Manager of Medical Operations, in the form of Exhibit A. The purpose of the memo was to document the billing agreement between HIP and the Department. The agreement is hereby amended by deleting all provisions of the letter in their entirety, replacing its terms with the following:

- A. HIPES will purchase the Social Security Administration Death Master File (DMF), and the annual subscription for monthly updates. This data will be integrated into the CT MMIS for automated processing
- B. HIPES will bill the Department monthly for the annual DMF subscription for monthly updates and bill the Department in May each year for the annual subscription for this service until directed by the Department to discontinue.

2013 SSA DMF Pricing			
Product	Fee	Payment Frequency	Comments
SUB-5251: SSA Death Master File (Full File)	\$1,825.00	One Time	Purchasers of the Full File, who intend to keep their Death Master File current, ARE REQUIRED to purchase a subscription to the DMF Weekly or Monthly Updates file, beginning with the week or month following the closing date of the current Full File. This is a MANDATE from the Social Security Administration. (The DMF full file was purchased May 2013, pursuant to SSA Death Master File additional services agreement dated May, 28th 2013.)
SUB-5446: SSA Death Master File Monthly Updates	\$4,100.00	Annual (Invoiced May each year)	Annual fee for monthly updates (subject to NTIS pricing changes)

- 9. Pursuant to Section 1, Subsection 1.5 (a) titled GENERAL CONTRACT PROVISIONS the Contract may make additional services available to the Department on a time and materials, per diem, or other mutually acceptable financial basis as negotiated by project or activity. These activities are anticipated to be in support of the state health care initiatives, and may include clerical support to eliminate state backlogs and outreach

efforts. The Contractor and the Department understand that these additional services may include funding from state only programs or grants.

Pursuant to Section 1, subsection 1.5 (d), labeled GENERAL CONTRACT PROVISIONS of the original agreement, the Department permits the expansion of the scope of work covered by the contract or additional compensation in excess of the amount set forth...[if the request] may be based on new requirements resulting from changes in State or Federal regulations and may require enhanced Federal funding support to implement. In general, changes requiring system modifications shall be performed by the Contractor as part of the Maintenance and Modifications Task support and shall not require a contract amendment or additional funding.

A memo signed March 3, 2014; Subject titled, Access Health CT Medicaid Eligibility Call Center Agreement, was written by Greg Jackson, the Contractor's Account Executive, to Mark Heuschkel, the Department's Executive Medical Administration Manager of Medical Operations, in the form of Exhibit B. The purpose of the memo was to document the agreement between HP and the Department for augmenting the HP Provider Assistance Call Center to include Call Center and operational support for the Access Health CT (AHCT) Medicaid Eligibility project defined in CR 10803. The agreement is hereby amended by deleting all provisions of the letter in their entirety, replacing its terms with the following:

- A. HPES will add a team of five (5) call center agents and three (3) processing clerks to provide the operational support for the Access Health CT (AHCT) Medicaid Eligibility project, as described below:
 - 1) The primary role of the Call Center Agents will be to:
 - a) Take incoming eligibility calls from providers who are presented with Access Health CT letters from clients,
 - b) Enter the required eligibility information into the MMIS,
 - c) Supply providers with the system generated temporary client ID, and
 - d) Provide instructions for sending the AHCT "Eligibility Decision for Health Care Coverage" letter to HPES.
 - 2) The primary role of the processing clerks will be to:
 - a) Finalize the eligibility entry process by validating the receipt of the AHCT letters from providers, and
 - b) Conduct outreach/follow up with providers for such letters that have not been received or is invalid.
- B. The Department shall retain the flexibility to adjust staffing levels based on the call volumes over time. To allow for adequate ramp up or ramp down plans, HPES and the Department jointly agree to a thirty (30) day notice to change staffing levels.
- C. HPES will invoice the Department a monthly rate of \$5,700.00 per person per month for this support staff.
- D. HPES will continue to staff and support the AHCT eligibility process until notified by the Department to discontinue it.

10. MAPIR CORE DEVELOPMENT

The MAPIR Collaborative and the Core HPES MAPIR Team shall continue to focus on the next phase of MAPIR, which will address requirements issued in the September 4, 2012 final rule for Medicare and Medicaid Programs; Electronic Health Record Incentive Program - Stage 3, as well as the ongoing support and enhancement of the MAPIR application.

- a) The term of the MAPIR Statement of Work will be 24 months, from October 1, 2014, through September 30, 2016.
- b) HPIES will provide a dedicated team of core HPIES resources to the MAPIR Collaborative design, develop, implement and support the core MAPIR application which enables administration of the Electronic Health Record Incentive Program.
- c) The first quarterly fee shall be due in December 2014. The costs of the MAPIR enhancement, ongoing support and maintenance will be divided equally between all MAPIR Collaborative Members that commit to the MAPIR SOW dated June 5, 2014 for the term identified. As the number of participating states may vary, a tiered payment schedule is provided. The Department has committed to the SOW with the understanding that some of the Collaborative member states may not participate for the entire SOW period due to the end of an HPIES state MMIS contract. In the event that any state needs to terminate its commitment to the MAPIR Collaborative, the state must provide written notice to the MAPIR Collaborative and HPIES at least 60 days prior to the last day of the quarter in which they participate in the collaborative.
- d) The chart below shows the quarterly costs should the participating collaborative states be reduced. If less than nine (9) states, or more than thirteen (13) states, participate with the multi-state collaborative, HPIES and the multi-state collaborative will mutually agree to amend the SOW and renegotiate the quarterly fee.

Number of States	13	12	11	10	9
Cost per quarter per state 10/1/2014-09/30/2016	\$63,487.62	\$68,778.25	\$75,030.82	\$82,533.90	\$91,704.33
Total Cost per state 10/1/2014-9/30/2016	\$507,900.96	\$550,226.00	\$600,246.56	\$660,271.20	\$733,634.64

The anticipated minimum and maximum cost for the design, development, deployment, and maintenance/support for the core MAPIR application based on participating states contract end dates are presented in the table below.

Timeframe	Minimum Total Cost (13 states participating entire SOW)	Possible Maximum Total Cost	Number of Participating States
Quarters 1-4 10/01/2014-09/30/2015	\$253,950.48	\$253,950.48	13
Quarter 5 09/30/2015-12/31/2015	\$63,487.62	\$68,778.25	12
Quarters 6-8 01/01/2016-09/30/2016	\$190,462.86	\$225,092.46	11
Total Cost Per State 10/1/2014-09/30/2016	\$507,900.96	\$547,821.19	

- e) In consideration of the quarterly payments, HPIES shall provide the following software maintenance and technical support: HPIES will maintain four separate and distinct development, system, and deployment test environments for the four latest releases. In addition to the physical hardware and software for these environments, HPIES will support configuration management, system administration, and operational support (backups, patches, etc.). HPIES will employ the leveraged HPIES cLab environments for this effort. Core MAPIR application updates will be issued through

the scheduled software releases agreed to by the parties. Patches will be issued for "emergency" situations as agreed by the parties.

- f) With the approval of the MAPIR collaborative, releases will be made available to State HIPES Project-Teams for deployment to the state-specific environments through the existing secure FTP server process.
- g) With each release, Core HIPES MAPIR staff will update the appropriate CORE MAPIR technical and user documentation.

Version/Release	Scope Finalized*	Project Plan*	Business Design Document Approved*	Delivered* (with User Accepted Testing)
Release 5.5	09/15/2014	10/10/2014	11/14/2014	02/27/2015
Release 5.6	01/12/2015	02/06/2015	03/13/2015	10/15/2015
Release 5.7	03/30/2015	04/27/2015	06/26/2015	02/19/2016
Release 6.0 - Stage 3 MC HIT's	12/07/2015	01/08/2016	03/25/2016	09/23/2016

*Target dates subject to change due to changes in requirements, shifts in MAPIR CMC priorities and new or updated CMS regulatory requirements that affect the incentive program.

10. MAPIR-CT MMIS INTEGRATION/CUSTOMIZATION

A. The Connecticut HIPES Technical Team (CT HIPES Team) will integrate and customize the MAPIR Core enhancements for the CT MMIS. For each MAPIR release, the CT HIPES Team will implement the changes required to integrate the functionality into the CT MMIS.

- 1) HIPES will be paid the contract hourly modification hour rate for integration and customization of MAPIR releases/enhancements. These modification hours will be used for the technical definition, design, installation of core MAPIR enhancements and for CT Project Management support of MAPIR enhancements. The HIPES CT MMIS team will produce design documentation and system test results as deliverable for the Department review and approval.
- 2) HIPES and the Department jointly agree not exceed 2,500 modification hours in each of the two (2) Contract year extensions for the customization of ongoing MAPIR enhancements and maintenance upgrades for the CT MMIS. HIPES will notify the Department of circumstances that impact this estimate. Hours in excess of the agreed upon estimate will not be included in the MAPIR modification hour invoice without prior Department approval. HIPES will include MAPIR modification hours in the quarterly modification hour reporting, approval, and invoicing process. Modification hours for MAPIR will be tracked, reported, and invoiced separately from the base contract modification hour pool.
- 3) Modification hours expended to support the HIT/EHR/Incentive Payment Program, not directly associated with the integration and customization of MAPIR application, will be invoiced to the Department quarterly using the contract modification hour approval and submission process. These hours will be tracked separately and will be invoiced to the Department on the HIT/EHR modification hour invoice as a separate line item.

11. The passing of the Sustainable Growth Rate (SGR) Bill delayed the adoption of the ICD-10 code sets, HPIIS will carry forward the ICD-10 implementation project under the terms and conditions defined in Amendment 6, Section 4, to meet the mandatory compliance date of October 1, 2015.
12. December 31, 2013 is the date of termination for the ConnPACE program. HPIIS and the Department jointly agree to modify the MMIS RFP Scope of Work Section CA.13 to remove the ConnPACE program requirements from this Contract.
13. All other terms and conditions of the MMIS Contract and subsequent amendments not addressed in this Amendment remain unchanged and in full force and effect to include but not limited to the following:

All-Inclusive Hourly Rates (HR) for Optional Modification Hours	Connecticut MMIS RFP Cost Proposal Appendix 11
MMIS Postage	Connecticut MMIS Contract Section 13.4
RetroDUR expansion	Amendment 3, paragraph 4
Additional Provider and Call Center representatives (HIT/EHR)	Amendment 4, paragraph 4
Additional Call Center representatives	Amendment 4, paragraph 5

The parties shall execute this Amendment Seven (7), which shall be scanned and emailed to all parties and retained by the Department, the Contractor, and by the Centers for Medicare and Medicaid Services (CMS), to be executed by their duly authorized representatives.

14. The original agreement and all subsequent amendments shall be appended to include the following:

The agreement shall meet all federal requirements related to 42 CFR Part 495 Standards for Electronic Health Record Technology Incentive Program Subpart D: Requirements Specific to the Medicaid Program Procurement standards applicable to the services being provided by HPIIS. Any changes to these requirements will be reviewed by the parties as to scope and price and addressed through the change control process of the contract. All other terms and conditions of the MMIS Contract and subsequent amendments not addressed in this Amendment remain unchanged and in full force and effect. The parties shall execute this Amendment Seven (7), which shall be scanned and emailed to all parties and retained by the Department, the Contractor, and by the Centers for Medicare and Medicaid Services (CMS), to be executed by their duly authorized representatives.

15. The "Health Insurance Portability and Accountability Act of 1996" as amended in Amendment Three is deleted and replaced by the following section:

Health Insurance Portability and Accountability Act of 1996.

- (a) If the Contractor 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)¹, and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, D and F (collectively referred to herein as the "HIPAA Standards").
- (f) Definitions
- (1) "Breach" shall have the same meaning as the term is defined in section 45 C.F.R. 164.402 and shall also include an 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 F.
 - (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 subcontractors that create, receive, maintain or transmit protected health information on behalf of the business associate, agree 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 (p)(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 HIPAA 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 HIPAA 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 HIPAA 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, 164.510, 164.512, 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 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 HIPAA 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 protected health information, 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 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 protected health information 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 protected health information 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, 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 (j) (16) (C) of this Section and determine whether, in its opinion, there is a low probability that the PHI has been compromised. Such recommendation shall be transmitted to the Covered Entity within 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 of the Business Associate, the Business Associate, if directed by the Covered Entity, shall provide all notifications required by 45 C.F.R. 164.404 and 45 C.F.R. 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(c)(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)(?) 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 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.

All terms and conditions of the original contract, and any subsequent amendments thereto, which were not modified by this Amendment remain in full force and effect.

EXHIBIT A
TO AMENDMENT 7
TO DSS CONTRACT
052EDS-MOP-01/05DSS6701IW



Date: May 28, 2013
 To: Mark Heuschkel
 DSS
 From: Greg Jackson
 HP, Account Executive
 Subject: SSA Death Master File Billing Agreement

The purpose of this memorandum is to document the billing agreement between HP and the Department for the purchase and annual subscription for SSA's Death Master File data. This agreement is covered under Section 1.5a Contract Modifications - "The Contractor may make additional services available to the Department on a time and materials basis, per item, or other mutually accepted financial basis as negotiated by project or activity."

HP will purchase the Social Security Administration Death Master File (DMF), and the annual subscription for monthly updates. This data will be integrated into the CT MMIS for automated processing.

HP will invoice the Department for these purchases as pass-through cost using the contract monthly invoicing process. HP will renew and invoice the Department in May each year for the annual subscription for this service until directed by the Department to discontinue.

The 2013 pricing information is documented in the table below. The price for the annual subscription is subject to pricing changes from the SSA death file vendor NTIS. The Department will be notified of price changes prior to HP renewing the subscription.

2013 - Price for SSA DMF			
Product	Fee	Payment Frequency	Comments
SUB-5251: SSA Death Master File (Full File)	\$1,325	One Time	Purchasers of the Full File, who intend to keep their Death Master File current, ARE REQUIRED to purchase a subscription to the DMF Weekly or Monthly Updates file, beginning with the week or month following the closing date of the current Full File. This is a MANDATE from the Social Security Administration.
SUB-5146: SSA Death Master File Monthly Updates	\$4,100	Annual	Annual fee for monthly updates (subject to NTIS pricing changes)



Please indicate your approval of this agreement by signing and returning this memo to me. If you have any questions, please contact me at 860-255-3842.

Thank you,

Greg Jackson


----- Date: 6/12/13-----
(Signature indicates approval)

cc: DSS: I. Shirley HR: D. Gallagher
 S. Ouellette D. Zengel

HP OUT REF: 13-102-003

EXHIBIT B
TO AMENDMENT 7
TO DSS CONTRACT
052EDS-MOP-01/05DSS6710



Date: March XX 2014

To: Mark Heuschkel
DSS, Medical Operations Manager

From: Greg Jackson
HP, Account Executive

Subject: Access Health CT Medicaid Eligibility Call Center Agreement

The purpose of this memorandum is to document the agreement between HP and the Department for augmenting the HP Provider Assistance Call Center to include Call Center and operational support for the Access Health CT (AHCT) Medicaid Eligibility project defined in CR 10803. This agreement is covered under Section 1.5a Contract Modifications - "The Contractor may make additional services available to the Department on a time and materials basis, per diem, or other mutually accepted financial basis as negotiated by project or activity."

HP is proposing adding a team of five (5) Call Center agents and three (3) processing clerks to provide operational support for the AHCT Eligibility process. HP has proposed this staff model assuming an average provider call volume of 200 calls per day.

The primary role of the Call Center agents will be to:

- Take incoming AHCT Eligibility calls from providers
- Enter the required eligibility information into the MMIS,
- Supply providers with the system generated temporary client ID
- Provide instructions for sending AHCT "Eligibility Decision for Health Care Coverage" letter to HP.

The primary role of the processing clerks will be to:

- Finalize the eligibility entry process by validating the receipt of the AHCT letters from providers
- Conduct outreach/follow-up with providers for AHCT letters that have not been received or is invalid.

HP will staff these positions providing the Department the flexibility to adjust staffing levels based on the call volumes over time. To allow for adequate ramp up or ramp down plans, HP would require a minimum of 30 day notice to change staffing once HP and the Department have agreed to a staffing level.

HP will invoice the Department a monthly rate of \$5,700 per person for this support staff. The contract monthly invoicing process will be used to invoice the department. HP will provide a unique invoice for this billing if required by the Department.



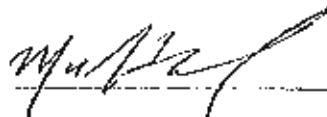
To allow for the lead time required to staff the Call Center, HP and the Department have agreed to a two phase approach for the bringing up the AHCT Eligibility process. The initial phase will be supported using the existing HP Call Center staff, and is targeted to begin April 1st 2014 and run through early May 2014. This phase will occur prior to the official notification of the eligibility process to the provider community. HP is anticipating the AHCT Eligibility call volume during this this period to be between 50 and 75 calls per day. There will be no additional fee to the Department from HP for this service during this phase.

Once HP has staffed and trained the new positions, the Eligibility process will be transitioned from the existing Call Center staff. This transition will coincide with the publication of the bulletin informing the providers of the AHCT Medicaid Eligibility process. It is anticipated that this phase will begin in early to mid-May 2014. HP will continue to staff and support the AHCT Eligibility process until notified by the Department to discontinue it.

Please indicate your approval of this agreement by signing and returning this memo to me. If you have any questions, please contact me at 860-255-3842.

Thank you,

Greg Jackson



(Signature indicates approval)

Date: 3/31/14

cc: DSS: S. Ouellette

HP: D. Gallagher
C. LaPosta

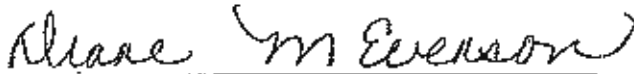
SIGNATURES AND APPROVALS

052EDS-MOP-01 / 05DSS67011W A7

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

Documentation necessary to demonstrate the authorization to sign must be attached.

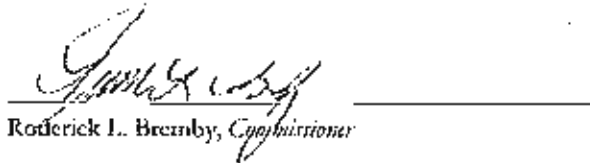
CONTRACTOR – HEWLETT-PACKARD



Diane Evenson
General Manager
Government Healthcare & Human Services

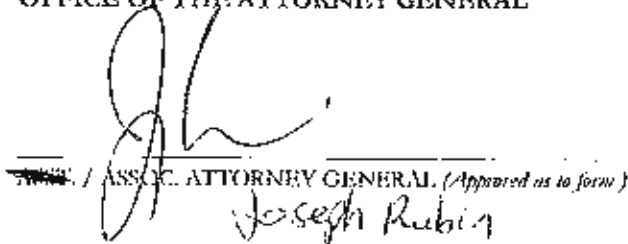
08/29/2014
Date

DEPARTMENT OF SOCIAL SERVICES


Roderick L. Bremby, Commissioner

9, 9, 2014
Date

OFFICE OF THE ATTORNEY GENERAL


ASSOC. ATTORNEY GENERAL (Appeared as to form)
Joseph Rubin

9/18/14
Date



STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES

CONTRACT AMENDMENT

Contractor: HEWLETT-PACKARD
Contractor Address: 195 SCOTT SWAMP ROAD, FARMINGTON, CT 06032
Contract Number: 052EDS-MOP-01 / 05DSS6701W
Amendment Number: A6
Amount as Amended: \$40,033,521
Contract Term as Amended: 08/17/05 - 10/01/14

The contract between Hewlett-Packard (the Contractor or HPES) and the Department of Social Services (the Department), which was last executed by the parties and approved by the Office of the Attorney General on 01/30/13, is hereby further amended as follows:

1. The total maximum amount payable under this contract is increased by \$4,310,716 from \$35,722,805 to \$40,033,521.
2. The effective dates of this amendment are the date of approval through September 30, 2014.
3. HPES and the State jointly agree to modify the MMIS Scope of Work (Section C of the RFP) as follows to add ICD-10 implementation activities; MAPIR 5 enhancements and support; ACA 1104 phase I and phase II operating rules implementation and ongoing support; and modifying contract transaction volumes and billing.
4. **ICD-10 Implementation.** HPES will modify the Connecticut Medicaid Management Information System ("MMIS") and the Data Warehouse System to adopt the International Classification of Disease, Tenth Revision, Clinical Modification (ICD-10-CM) and Procedure Coding System (ICD-10-PCS). To comply with final rule (45 CFR Part 162, HIPAA Administrative Simplification: Modifications to Medical Data Code Set Standards to Adopt ICD-10-CM and ICD-10-PCS, Federal Register/Vol.74 No.11) published Friday, January 18, 2009. It designates ICD-10-CM and ICD-10-PCS as medical data code sets under HIPAA, replacing the 30 year-old ICD-9 CM set. The mandatory compliance date is October 1, 2014.
 - A. HPES will perform this modification in two phases, an assessment phase and an implementation phase. During the assessment phase, HPES will conduct an end to end assessment and impact analysis of the system to determine the scope of work necessary to implement ICD-10 codes into the systems. HPES will identify all areas of the systems that require modification and any hardware or third party software that is impacted.
 - B. During the implementation phase of the project, HPES will design, code and test the modifications needed to bring the systems into compliance; provider outreach, testing and implementation plans will be developed and executed; and Impacted System, Provider, and user documentation will be updated to reflect the modifications.

- C. In consideration for the assessment and implementation work to be performed, HPES shall be paid the contract hourly modification hour rate as stipulated in Pricing Schedule 4 for the MMIS modification hours, the pricing schedule documented in the Data Warehouse Phase II Statement of Work document for the Data Warehouse modification hours. The modification hours for ICD-10 project will not utilize the existing MMIS contract modification hour pool. Hours for the ICD-10 project will be tracked and reported to the Department separately from the MMIS modification hour pool, and the Data Warehouse monthly modification hours.
- D. HPES billable staff will consist of Project Managers, System Engineers, and experienced Business Analysts. HPES and the Department have mutually agreed that ICD-10 rules configuration and ICD-9 to ICD-10 mapping effort conducted by HPES Business Analyst for the project are billable modifications under the following conditions.
- 1) HPES has increased the number of Business Analysts to support the ICD-10 project
 - 2) Business Analyst billable hours are for configuration and crosswalk/mapping efforts only and these analysts have a minimum of 3 years' experience in Medicaid analysis and/or business design.
- E. HPES has estimated the effort for configuration and crosswalk/mapping efforts to be 6,350 hours. These hours include the total MMIS estimate for the project. HPES will notify the Department of circumstances that impact this estimate (i.e. scope changes). Hours in excess of the HPES estimate would not be included in the modification hour invoice without prior Department approval.
- F. For the ICD-10 project, HPES and the Department have mutually agreed that the modifications performed by HPES subcontractor Impression Technology to the Connecticut MMIS paper claims entry system (iCapture) are billable modifications to the Department. Billable hours will be limited to the technical tasks required to modify the applications that process the paper claims data including; data entry/capture screens, Optical Character Recognition (OCR) processes, and the data structures and system data interface formats.
- G. HPES has estimated the Impressions Technology modifications to be 700 hours. These hours are included in the total MMIS estimate. The hourly billing rate for this subcontractor will follow the MMIS contract modification hour pricing schedule. The Department will be invoiced for modification hours performed by Impression Technology technical resources only. HPES will uniquely track and document the subcontractors hours as part of the quarterly ICD-10 modification hour billing reporting.
- H. HPES and the Department have mutually agreed to a not to exceed estimate of 23,200 billable modification hours for the assessment and implementation of ICD-10 for the MMIS system, and 2,200 billable modification hours for the assessment and implementation ICD-10 for the Data Warehouse system. These estimates are based on HPES' current understanding of the scope of ICD-10. HPES will notify the Department of circumstances that impact these estimates (i.e. scope changes). Hours in excess of the agreed upon estimates will not be included in the ICD-10 modification hour invoice without prior Department approval.
- I. The ICD-10 project will be milestone deliverable based. Using the MMIS contract modification hour invoice process, HPES will invoice the Department upon their acceptance of milestone deliverables. The modification hour invoice for ICD-10 deliverables will be delivered to the Department quarterly. Modification hours will be invoiced the month following the contract quarter that a deliverable(s) was accepted by the Department.

Deliverable	Estimated Hours	Estimated Delivery Date
<i>Assessment/Impact Analysis</i>	1,400	March 2013
<i>Project Plan</i>	2,500	April 2013
<i>Detailed Definition Document</i>	3,500	June 2013
<i>Implementation Plan</i>	5,000	October 2013
<i>Provider Documentation</i>	5,000	March 2014
<i>Revised Procedural Manuals</i>	4,500	June 2014
<i>Updated Technical Documentation</i>	3,500	September 2014
<i>Totals</i>	25,400	

5. MAPIR 5 Enhancements, Ongoing Development and Support:

A. MAPIR 5 - Core Development: The MAPIR Collaborative and the Core HPES MAPIR Team shall focus on the next phase of MAPIR, which will address requirements issued in the September 4, 2012 final rule for Medicare and Medicaid Programs; Electronic Health Record Incentive Program--Stage 2, as well as the ongoing support and enhancement of the MAPIR application.

- 1) The term of the MAPIR 5 Statement of Work is for 24 months from January 1, 2013, through September 30, 2014.
- 2) HPES will provide a dedicated team of core HPES resources to the MAPIR Collaborative for application enhancements, system support, and maintenance services for the MAPIR 5 functionality. HPES will invoice the Department quarterly payments for the MAPIR 5 functionality using the MMIS contract invoicing process.
- 3) The first quarterly fee is due in March 2013 in the amount of \$61,638.50. The costs of MAPIR enhancements, ongoing support and maintenance will be divided equally between all MAPIR Collaborative Members that commit to the MAPIR 5 SOW for the term identified. As the number of participating states may vary, a tiered payment schedule is provided. The Department has committed to the SOW with the understanding that some of the Collaborative member states may not participate for the entire SOW period due to the end of an HPES state MMIS contract. Should that occur, the state will provide the MAPIR Collaborative and HPES with a minimum 60 days written notice that it will no longer continue to participate in the Collaborative as of a specified date which must be the last day of a quarter and when the final payment will be due.
- 4) Subsequent to such notification, quarterly payments for the remaining members of the MAPIR Collaborative will be adjusted accordingly and will be based on the total quarterly price divided by the reduced number of states.

MAPIR Payment Schedule					
# of states	13	12	11	10	9
Quarterly cost per state	\$61,638.50	\$66,775	\$77,845.50	\$80,130	\$89,033.50
Total cost per state	\$131,169.50	\$167,425	\$569,918.50	\$560,910	\$623,234.50

The anticipated minimum and maximum cost for the design, development, deployment, and maintenance/support for the core MAPIR application based on participating states contract end dates are presented the following table.

Anticipated costs based on participating states contract end dates			
Timeframe	Minimum total cost	Maximum total cost	Number of participating states
Quarters 1 - 3 1/1/13 - 9/30/13	\$184,915.50	\$184,915.50	13
Quarters 4-5 10/1/13 - 03/31/14	\$123,277	\$133,550	12
Quarters 6-7 04/01/14 - 09/30/14	\$123,277	\$145,691	11
Total Cost per state 01/01/13 - 09/30/14	\$431,469.50	\$464,156.50	

- 5) In consideration of the quarterly payments, HPES shall provide the following software maintenance and technical support: HPES will maintain two separate and distinct development, system, and deployment test environments for the two latest releases. In addition to the physical hardware and software for these environments, HPES will support configuration management, system administration, and operational support (backups, patches, etc.) HPES will employ the leveraged HPES eLab environments for this effort. Core MAPIR application updates will be issued through the scheduled software releases agreed to by the parties. Patches will be issued for "emergency" situations as agreed to by the parties.
 - 6) With approval of the MAPIR collaborative, releases will be made available to State HPES Project Teams for deployment to the state-specific environments through the existing secure FTP server process.
 - 7) With each release, Core HPES MAPIR staff will update the appropriate Core MAPIR technical and user documentation.
- B. **MAPIR 5 - CT MMIS integration/customization:** The Connecticut HPES technical team will integrate and customize the MAPIR 5 enhancements for the CT MMIS. For each MAPIR release, the CT HPES team will implement the changes required to integrate the functionality into the Connecticut MMIS.
- 1) HPES will be paid the contract hourly modification hour rate for integration and customization of MAPIR releases/enhancements. These modification hours will be used for the technical definition, design, and installation of core MAPIR enhancements, and for CT Project Management support of MAPIR Collaborative, and on-going oversight of the MAPIR design. For each major release of core MAPIR enhancements, the HPES CT MMIS team will produce design documentation and system test results as deliverables for the Department review and approval
 - 2) HPES and the Department have agreed to a not to exceed 7,200 hour estimate for the integration and customization of ongoing MAPIR enhancements and maintenance upgrades for the CT MMIS. HPES will notify the Department of circumstances that impact this estimate. Hours in excess of the agreed upon estimate will not be included in the MAPIR modification hour invoice without prior Department approval. HPES will include MAPIR modification hours in the quarterly modification hour reporting, approval, and invoicing process. Modification hours for MAPIR will be tracked, reported, and invoiced separately from the base contract modification hour pool.

Release	Description	Target Release Date
Version 5.0	Final Rule changes	Q1/2013
Release 5.1	Enhancements	Q2/2013
Release 5.2	Stage 2 EAI	Q4/2013
Release 5.3	Stage 3 EAI	Q1/2014
Release 5.4	Enhancements	Q3/2014
	Stage 3 EAI Analysis or Enhancements	TBD

- 3) Modifications hours expended to support the HIT/EHR/Incentive Payment Program not directly associated with the integration and customization of MAPIR application will be invoiced to the Department quarterly using the contract modification hour approval and submission process. These hours will be tracked separately and will be invoiced to the Department on the HIT/EHR modification hour invoice as a separate line item.

6. ACA 1104 Operating Rules:

45 CFR Parts 160 and 162, Section 1104 of the Patient Protection and Affordable Care Act (ACA) mandates the adoption of Operating Rules for Eligibility for a Health Plan and Health Care Claim Status Transactions. The rules establish new requirements for administrative transactions to improve the utility of the existing HIPAA transactions and reduce administrative costs. These operating rules address gaps in standards, help refine the infrastructure that supports electronic data exchange and recognize interdependencies among transactions. The Committee for Affordable Quality Healthcare (CAQH) Committee on Operating Rules for Information Exchange (CORE) has been named as the Operating Rules Authoring Entity for transactions within section 1104 of the ACA.

- A. HPES will modify the Connecticut Medicaid Management Information System ("MMIS") to comply with ACA 1104 Phase I and Phase II CAQH/CORE Operating Rules. HPES will modify the CT MMIS eligibility transaction (HIPAA 270/271) and the claim status transaction (HIPAA 276/277) to comply with the CAQH/CORE Data Content rules. For the CAQH/CORE Infrastructure rules, HPES will design and develop a leveraged technical solution that will be implemented by each of the HPES MMIS States that utilize HPES's existing shared HIPAA translator infrastructure.
- B. The MMIS enhancements will be managed in two phases. The first phase will assess, design, and implement the eligibility and benefit CAQH/CORE Data Content Rules. The second phase will assess, design and implement the CAQH/CORE Infrastructure Rules for eligibility/benefit transactions and the claims status transactions.
- C. For both the Data Content Rules and the Infrastructure Rules, HPES will perform an assessment and design prior to the implementation. During the assessment, HPES will conduct an end to end assessment and impact analysis of the system to determine the scope of work necessary to implement the Operating Rules into the system. HPES will identify all areas of the systems that require modification and any hardware or third party software that is impacted.
- D. During the implementation, HPES will code and test the modifications needed to bring the system into compliance. Provider outreach, testing and implementation plans will be developed and executed. Impacted system, provider, and user documentation will be updated to reflect the modifications.
- E. The application design and development to comply with the Data Content Rules will be performed by the Connecticut MMIS HPES technical team, and billed as modification hours to the Department. HPES will track and invoice the assessment and design modification hours against the MMIS contract modification pool. The development and implementation modification hours will be tracked and invoiced as ACA 1104 data content rules project hours.
- F. The project will be milestone deliverable based. Using the MMIS contract invoice process, HPES will invoice the Department upon their acceptance of milestone deliverables. The modification hour invoice for deliverables will be delivered to the Department quarterly. Modification hours will be invoiced the month following the contract quarter that a deliverable(s) was accepted by the Department.

Data Content Rules Design and Development Deliverable Schedule				
Deliverable	Estimated Fee	Estimated Modification Hours	Due Date	Comments
Data content rules Assessment & Design Document	\$48,500	500	December 2012	Assessment and design of the application changes for the 270/271 and 276/277 transactions
Data Content Rules Test Results/Go-Live	\$339,500	3,500	April 2013	Development and implementation of the application changes for the 270/271 and 276/277 transactions
Total	\$388,000	4,000		

- G. For the CAQH/CORE Infrastructure rules, HPFS will design and develop a leveraged technical solution that will be implemented by each of the five HPES MMIS States that utilize HPES's shared HIPAA translator infrastructure (Connecticut, Alabama, Rhode Island, Vermont and Wisconsin).
- H. HPFS will supply to the Department the implementation and on-going infrastructure support defined in the attached Exhibit A 1104 Operating Rules Statement of Work (SOW)
- I. Using the MMIS contract invoice process, HPFS will invoice the Department upon acceptance of the milestone deliverables documented in the following table:

Leveraged Solution Design and Development Fee Schedule				
Deliverable	CT Fee	Total Leveraged Fee	Due Date	Comments
Infrastructure Rules Assessment & Design Document	\$39,400	\$197,000	March 2013	Assessment and design of the leveraged solution
Code Release for Infrastructure Connectivity Rules	\$197,000	\$985,000	July 2013	Installation and configuration of the shared hardware and software platform complete. Application ready for integration into each states MMIS
CT Go-Live Leveraged Solution	\$48,500		August 2013	Leveraged solution integrated into production CT MMIS
Totals	\$284,900	\$1,182,000		

- J. Using the MMIS contract invoice process, the Department will be billed for upfront and on-going shared infrastructure fees. For the upfront purchases and the installation/configuration of the leveraged environment, the Department will be invoiced during the implementation period upon acceptance of the design. For on-going maintenance and hosting charges, the Department will be billed monthly after system go-live, using the MMIS contract invoicing process. The following table documents the infrastructure fees.

Upfront Infrastructure and Ongoing Maintenance Fees				
	CT Infrastructure Fees	Total Infrastructure Fees	Deliverable	Due Date
Initial Purchase and Installation of Hardware and Software	\$25,500	\$127,500	Infrastructure Rules Assessment & Design Document	March 2013
*Ongoing monthly hosting and maintenance fee (@ \$47,500/month for 16 months (6/2013 - 9/2014))	\$152,000	\$760,000	CT Go-Live Leveraged Solution	August 2013
Total Upfront and Ongoing Maintenance Fees for 16 Months Period	\$177,500	\$887,500		

*The monthly infrastructure hosting and maintenance cost assumes a minimum commitment date through September 2014 for all participating states.

7. Modification of Contract Transaction Volumes

- A. To more accurately reflect the current and anticipated transaction volumes processed in the MMIS, HPES and the Department mutually agree to revise the contract pricing schedules defined in RFP Section D.3.2 Operations, Maintenance, Modifications and Turnover Tasks Revised Pricing Schedules by expanding the transaction pricing schedule corridor ranges from 5% to 25%. The revisions are listed in Exhibit A of this Amendment.

Pricing Schedule	Transaction	Effective Date	End Date	Contract Year	Pricing Schedule Action
2f-part 2 2g-part 2	Pharmacy claims	April 1, 2013	September 30 2014	6 and 7	Modified
2h-part 2 2i-part 2 2j-part 2	Pharmacy claims	October 1 2014	September 30 2017	Option Year 1 Option Year 2 Option Year 3	Modified
2f-part 2 2g-part 2	Non pharmacy claims	April 1, 2013	September 30 2014	6 and 7	Modified
2h-part 2 2i-part 2 2j-part 2	Non pharmacy claims	October 1 2014	September 30 2017	Option Year 1 Option Year 2 Option Year 3	Modified
2f-part 3 2g-part 3	ConnPACE enrollment	October 1 2013	September 30 2014	6 and 7	Removed
2h-part 3 2i-part 3 2j-part 3	ConnPACE enrollment	October 1 2014	September 30 2017	Option Year 1 Option Year 2 Option Year 3	Removed
2f-part 4 2g-part 4	Pharmacy Prior Authorization	April 1, 2013	September 30 2014	6 and 7	Modified
2h-part 4 2i-part 4 2j-part 4	Pharmacy Prior Authorization	October 1 2014	September 30 2017	Option Year 1 Option Year 2 Option Year 3	Modified
2f-part 5 2g-part 5	MCO Encounters	October 1 2013	September 30 2014	6 and 7	Removed
2h-part 5 2i-part 5 2j-part 5	MCO Encounters	October 1 2014	September 30 2017	Option Year 1 Option Year 2 Option Year 3	Removed
2f-part 6 2g-part 6	e-prescribing eligibility	April 1, 2013	September 30 2014	6 and 7	Modified
2h-part 6 2i-part 6 2j-part 6	e-prescribing eligibility	October 1 2014	September 30 2017	Option Year 1 Option Year 2 Option Year 3	Modified

- B. The revised pricing is in response to the following:
- 1) The pharmacy claim corridor range is being adjusted to reflect current production volumes.
 - 2) Connecticut restructured the Healthcare Delivery system, moving the Husky A, Husky B, and Charter Oak population from the traditional Managed Care to an Administrative Services Organization (ASO) model with fee-for-service claims processing. The current anticipated transaction volume range no longer cover the production Non-Pharmacy claims transaction volumes being processed in the MMIS. The transaction volume range and the fixed pricing associated with Non Pharmacy claims transactions are being adjusted to reflect current production volumes.
 - 3) The number of Pharmacy claims requiring Prior Authorization has been increased from what is currently projected. The anticipated Prior Authorization volume range currently defined no longer covers the production authorizations being worked by the HPES Prior Authorization unit. The Pharmacy Prior Authorization transaction volume and the fixed pricing associated with these transactions are being adjusted to reflect current production volumes.
 - 4) The current anticipated transaction volume range no longer covers the production e-prescribing transaction volumes being processed in the MMIS. The transaction volume range and the fixed

pricing associated with e-prescribing transactions are being adjusted to reflect current production volumes.

5) Encounter Pricing Agreement:

- a) The Department's transition from Managed Care to an Administrative Services Organization (ASO) model with fee-for-service claims processing eliminated the need to process MCO Encounters in the MMIS. Effective May 1, 2012, HPES and the Department have mutually agreed to discontinue the monthly invoicing for Encounter transactions. HPES will submit a final Encounter invoice for \$70,400 (existing monthly fee) in the April 2012 invoice cycle. HPES will continue to accept, process, and track encounters for a mutually agreed upon run-off period.
- b) A final Encounter transaction true-up will be performed at the end of the run-off period. In support of the Encounter run off process, a "run-off" corridor has been established (see table below). The corridor was derived from the contract pricing schedule and is equal to one month of anticipated Encounter volume. A true up will occur if the number of Encounters processed from April 1, 2012 through the end of the run-off period is outside the run-off corridor volume range. The Department will receive a credit, or will be invoiced for the out of band transaction volume at the per transaction rate. The invoicing for the true-up will occur at the end of the contract quarter that the run-off period ends in.

Annual Volume	Annual Fee	Monthly Volume = run-off corridor	Monthly Fee	Out of band transaction fee
6,827,459 - 7,546,139	\$814,800	568,955 - 628,845	\$70,400	+/- .10

6) ConnPACE Pricing Agreement:

- a) Legislative changes in the Connecticut state budget phased out the ConnPACE program for Medicare eligible clients. The phase-out has reduced the ConnPACE enrollment/re-enrollments below the volumes documented in contract pricing schedule 2 part 3 (ConnPACE Enrollment/Re-enrollment). As a result, HPES and the Department have jointly agreed to discontinue the use of the enrollment/re-enrollment volume based pricing for the ConnPACE program.
- b) Effective July 1 2011, fixed fee resource pricing for ConnPACE will replace the existing contract volume pricing documented in the ConnPACE Enrollment/Re-enrollment Pricing Schedules (Pricing Schedules 2-Part 3). The table below documents the resource pricing agreement.

Phase	Start Date	End Date	HPES Resources	Monthly Fee Per Resource	Total
Program ramp down/transition	7/1/2011	8/31/2011	4	\$5,700	\$22,800
On-going operations	9/1/2011	8/31/2012	2	\$5,700	\$11,400

- c) HPES provided a credit on the August 2011 invoice for the amount of \$8,775.66. This was done to reconcile the July 2011 billing where the Department was invoiced according to pricing schedule 2 part 3.
- d) Effective September 1, 2011, HPES discontinued the \$6,000 per month billing for the additional Drug Rebate Analyst added to support the services documented in Amendment 2 Sections 13-15
- e) HPES and the Department have mutually agreed that effective September 1, 2012, HPES will discontinue supplying and invoicing for dedicated staff to support the ConnPACE program under the following terms and conditions:

- i) HPES will continue to support the ConnPACE program absorbing the work into our other existing operational teams.
- ii) HPES will no longer be held to the ConnPACE program Service Level Agreements (SLA) documented in the MMIS RFP section C4.13.7, and will remove ConnPACE from the SLA and Operational reporting routinely provided to the Department.
- iii) Contract section 5.3.c "Key personnel for the Operations Phase" will be modified to remove the ConnPACE Manager as a required key position for HPES to provide
- iv) Contract section 13.4 "Actual Cost-Based Reimbursement", will be modified to include the reimbursement to HPES for the actual cost for ConnPACE bank service fees.
- v) HPES reserves the right to re-negotiate these terms in the event the ConnPACE program enrollment increases above 500, and/or the functions required to support the program are changed to the extent that they can no longer be supported with existing HPES staff.

This document constitutes an amendment to the above numbered contract. All provisions of that contract, except those explicitly changed above by this amendment, shall remain in full force and effect.

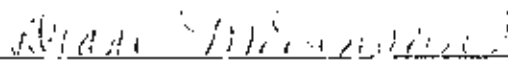
SIGNATURES AND APPROVALS

052EDS-MOP-01 / 05DSS6701IW A6

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

Documentation necessary to demonstrate the authorization to sign must be attached.

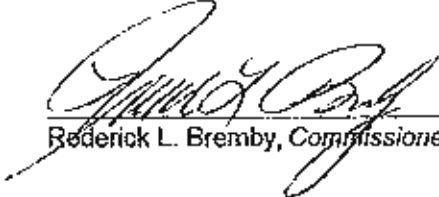
CONTRACTOR - HEWLETT-PACKARD



Diane Evenson
General Manager
Government Healthcare & Human Services

12/12/2013
Date

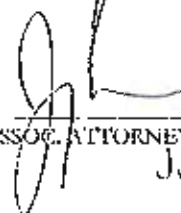
DEPARTMENT OF SOCIAL SERVICES



Frederick L. Bremby, Commissioner

12/24/2013
Date

OFFICE OF THE ATTORNEY GENERAL



~~ASSOC.~~ / ASSOC. ATTORNEY GENERAL (Approved as to form & legal sufficiency)
Joseph Rabin

7, 3, 13
Date

**AMENDMENT NUMBER FIVE TO
THE STATE OF CONNECTICUT DEPARTMENT OF SOCIAL SERVICES/EDS INFORMATION
SERVICES, LLC CONTRACT
ENTERED INTO ON AUGUST 17, 2005,
FOR THE STATE OF CONNECTICUT'S MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS)
DESIGN, DEVELOPMENT AND IMPLEMENTATION AND OPERATIONS CONTRACT**

Whereas, the State of Connecticut Department of Social Services ("State" or "Department") and EDS Information Services, LLC ("EDS") entered into a contract on August 17, 2005, for the design, development, implementation and operations for the State's Medicaid Management Information System ("MMIS Contract"); and

Whereas, the Parties last entered into an amendment to this contract on April 26, 2011, and the effective dates of this amendment are October 1, 2011 through September 30, 2014; and

Whereas, EDS Information Services, LLC was merged with and into Electronic Data Systems Corporation on December 31, 2007 and as of August 29, 2008 changed its name to Electronic Data Systems, LLC and as of January 1, 2010 changed its name to HEP Enterprise Services, LLC ("HPES"); and

Whereas, the Department and HPES desire to amend the MMIS Contract.

Now, therefore, for and in consideration of the promises to each other as set forth below, the parties agree as follows:

1. This Amendment Number Five ("Amendment Five") is entered into pursuant to Section 1.5, "Contract Modifications," of the MMIS Contract.
2. **MAPIR Enhancements, Ongoing Development and Support:** HPES will provide a dedicated team of core HPES resources to the MAPIR Collaborative for application enhancements, system support, and maintenance services defined in the attached MAPIR Ongoing Support Proposal. For these services, HPES will invoice the Department quarterly payments using the contract invoicing process. The invoice amount will be based on the total number of participating states.

MAPIR: Enhancements, Ongoing Support and Maintenance Payment Schedule

States Participating*	Quarterly Invoice Amt	Total for 15 Months
10	\$77,359.00	\$386,795.00
11	\$70,363.00	\$351,815.00
12	\$64,500.00	\$322,500.00
13	\$59,538.00	\$297,690.00
14	\$55,285.00	\$276,425.00
15	\$51,600.00	\$258,000.00

*If the total number of participating states drops below 10 or exceeds 15, HPES reserves the right to re-evaluate pricing

MAPIR integration/customization: The Connecticut HPES technical team will integrate and customize the ongoing MAPIR enhancements for the CT MMIS. For each MAPIR release, the CT HPES team will implement the changes required to integrate the functionality into the Connecticut MMIS.

HPES will be paid the contract hourly modification hour rate for integration and customization of MAPIR enhancements. These modification hours will be used for the technical definition, design, and installation of core MAPIR enhancements, and for CT Project Management support of MAPIR Collaborative, and on-going oversight of the MAPIR design. For each major release of core MAPIR enhancements, the HPES CT MMIS team will produce design documentation and system test results as deliverables for the Department review and approval.

HIPES and the Department have agreed to a not to exceed 3,500 hour estimate for the integration and customization of ongoing MAPIR enhancements and maintenance upgrades for the CT MMIS. HIPES will notify the Department of circumstances that impact this estimate (i.e. scope changes). Hours in excess of the agreed upon estimate will not be included in the MAPIR modification hour invoice without prior Department approval. HIPES will include MAPIR modification hours in the quarterly modification hour reporting, approval, and invoicing process. Modification hours for MAPIR will be tracked, reported, and invoiced separately from the base contract modification hour pool.

Modifications hours expended to support the HIT/EHR/Incentive Payment Program not directly associated with the integration and customization of MAPIR application will be invoiced to DSS quarterly using the contract modification hour approval and submission process. These hours will be tracked separately and will be invoiced to DSS on the HIT/EHR modification hour invoice as a separate line item.

3. Any change orders issued, whether codified in this amendment or otherwise, may be revoked unilaterally by the Department of Social Services provided that notice is given in writing, email sufficient, at least ten (10) days prior to the cancellation of the order.
4. The contract will meet all federal requirements related to 42CFR Part 495 Standards for the Electronic Health Record Technology Incentive Program Subpart D: Requirements Specific to the Medicaid Program Procurement standards applicable to the services being provided by HIPES. Any changes to these requirements will be reviewed by the parties as to scope and price and addressed thru the change control process of the Contract. All other terms and conditions of the MMIS Contract and subsequent amendments not addressed in this Amendment remain unchanged and in full force and effect. The parties shall execute this Amendment Five, which shall be scanned and emailed to all parties and retained by the Department, the Contractor, and by Centers for Medicare and Medicaid Services (CMS), to be executed by their duly authorized representatives.
5. Paragraph 23 of Amendment Number Two shall be amended to reflect the most current version of C.G.S. §§ 4a-60 and 4a-60a reprinted below and any change to applicable regulations, rules, and/or laws, both State and Federal, shall be adhered to by both parties.

Non-discrimination.

(a) For purposes of this Section, the following terms are defined as follows:

- (1) "Commission" means the Commission on Human Rights and Opportunities;
- (2) "Contract" and "contract" include any extension or modification of the Contract or contract;
- (3) "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
- (4) "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.
- (5) "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
- (6) "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;

- (7) "marital status" means being single, married as recognized by the State of Connecticut, widowed, separated or divorced;
- (8) "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;
- (9) "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
- (10) "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)
 - (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 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;
 - (2) 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;
 - (3) 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;
 - (4) 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-68c and 46a-68f; and

- (5) 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.

6. The following provisions shall be added to the contract:

- a. The Department of Social Services is entering into this contract under the authority of C.G.S. §4-8.
- b. **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. This Contract may also be subject to Executive Order 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms and Executive Order 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions. All of these Executive orders are incorporated into and made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the Agency shall provide a copy of these Orders to the Contractor.
- c. **Protection of Personal Information.**

"Personal 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.

"Personal 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.

- (a) Contractor and Contractor Parties, at their own expense, have a duty to and shall protect from a Personal Information Breach any and all Personal Information which they come to possess or control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with the current industry standards, attached hereto as Exhibit A
 - (b) Each Contractor or Contractor Party shall implement and maintain a comprehensive data security program for the protection of Personal Information. The safeguards contained in such program shall be consistent with and comply with the mandatory safeguards for protection of Personal 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, attached as Ex. A, concerning the confidentiality of Personal Information. Such data-security program shall include, but not be limited to, the following:
 - (1) A security policy for employees related to the storage, access and transportation of data containing Personal Information;
 - (2) Reasonable restrictions on access to records containing Personal Information, including access to any locked storage where such records are kept;
 - (3) A process for reviewing policies and security measures at least annually;
 - (4) Creating secure access controls to Personal Information, including but not limited to passwords; and
 - (5) Encrypting of Personal 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 Personal Information which Contractor or Contractor Parties possess or control has been subject to a Personal Information Breach. If a Personal 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 Personal 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 Personal 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 Personal 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.
- d. **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.

- e. **Sovereign Immunity.** The Contractor and Contractor Parties acknowledge and agree that nothing in the Contract, or the solicitation leading up to 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.
- f. **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. See SEEC Form 11 reproduced below:
http://www.ct.gov/seec/lib/seec/forms/contractor_reporting/seec_form_11_notice_only.pdf

APPROVED:

BY: Diane Evenson
Diane Evenson, General Manager
Government Healthcare & Human Services
HP Enterprise Services, LLC

DATE: 1/21/2013

BY: Roderick L. Bremby
Roderick L. Bremby, Commissioner
Department of Social Services
State of Connecticut

DATE: 1/25/2013

APPROVED AS TO FORM:

BY: Joseph Ruben 1/30/13
Associate Attorney General
Joseph Ruben



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/sec. 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 4a-100. "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, including 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.

**AMENDMENT NUMBER FOUR TO
THE STATE OF CONNECTICUT DEPARTMENT OF SOCIAL SERVICES/EDS
INFORMATION SERVICES, LLC CONTRACT
ENTERED INTO ON AUGUST 17, 2005,
FOR THE STATE OF CONNECTICUT'S MEDICAID MANAGEMENT
INFORMATION SYSTEM (MMIS) DESIGN, DEVELOPMENT AND
IMPLEMENTATION AND OPERATIONS CONTRACT**

Whereas, the State of Connecticut Department of Social Services ("State" or "Department") and EDS Information Services, LLC ("EDS") entered into a contract on August 17, 2005, for the design, development, implementation and operations for the State's Medicaid Management Information System ("MMIS Contract"); and

Whereas, the Parties last entered into an amendment to this contract on June 8, 2010; and

Whereas, EDS Information Services, LLC was merged with and into Electronic Data Systems Corporation on December 31, 2007 and as of August 29, 2008 changed its name to Electronic Data Systems, LLC and as of January 1, 2010 changed its name to HP Enterprise Services, LLC ("HPES"); and

Whereas, the Department and HPES desire to amend the MMIS Contract.

Now, therefore, for and in consideration of the promises to each other as set forth below, the parties agree as follows:

1. This Amendment Number Four ("Amendment Four") is entered into pursuant to Section 1.5, "Contract Modifications," of the MMIS Contract.
2. HPES and the State jointly agree to modify the MMIS Scope of Work (Section C of the RFP). The scope of work is being amended to add; (1) Connecticut's shared cost for the design and development of the core Medical Assistance Provider Incentive Repository (MAPIR) application for Year 1 (2) Planning and support effort for Connecticut's State Medicaid Health Information Technology (HIT) Plan (SMHP), (3) integration and customization of MAPIR for the Connecticut MMIS, and (4) on-going operational support for the Medicaid HIT Provider Incentive Program.
 - a. HPES and the State have mutually agreed to separate invoicing and payments for the Medicaid Provider Incentive Payment Program into two phases (1) payments associated with planning and design tasks, and (2) payments associated with development and implementation tasks.

- b. In a multiple state collaborative, the Commonwealth of Pennsylvania's Office of Medical Assistance Programs (PA OMAP) has led a collaborative effort with HP Enterprise Services (HPES) and States with an HPES MMIS, to build a new application. The application will have the capability to accommodate the payment provisions of the American Recovery and Reinvestment Act of 2009 (ARRA) that relate to provider and hospital incentive payments for the adoption and meaningful use of certified electronic health record (EHR) technology. HPES is developing a core application to meet the requirements of the first year of the Medicaid Provider Incentive Program. The core application being developed and subsequently will interface with the National Level Repository (NLR) as well as individual States' Medicaid Management Information Systems (MMIS) to allow providers to complete applications and, if approved, generate EHR incentive payments. This application is known as the core Medical Assistance Provider Incentive Repository (MAPIR).
 - c. The cost of the core MAPIR development will be divided equally between all States that committed to the project through the multi-State collaborative. The MAPIR system will be paid based on three deliverables. The first payment deliverable is for scope determination, high-level business requirements and project planning. The second payment deliverable is for Release #1 of the core MAPIR application. The third deliverable is for Release #2 of the core MAPIR application.
3. Planning and Design Phase - Provider Incentive Payment Program and SMHP: The paragraphs below document the components and payment terms for the planning and design phase of the Provider Incentive Payment Program.
 - a. *MAPIR integration and customization design:* The HPES CT MMIS technical team will develop the design to integrate and customize the core MAPIR application for the Connecticut MMIS. The outputs from this design process will include a design document, a price estimate to implement the changes, and if required, a price estimate for any additional hardware or software needed to integrate the MAPIR application into the CT MMIS.

HPES will be paid the contract hourly modification hour rate for the MAPIR integration and customization design. HPES will include the MAPIR design modification hours in the quarterly modification hour reporting, approval, and invoicing process. However, modification hours for MAPIR will be tracked, reported, and invoiced separately from the base contract modification hour pool.
 - b. *Provider Outreach Postage Cost:* HPES will uniquely track and invoice postage associated with the incentive payment mailings. HPES will continue this process until March 2011, or earlier if instructed to discontinue by DSS. Thereafter postage will be invoiced in accordance with the contract invoice process for postage.

- c. *HIT/SMHP planning, analysis, support and design:* HPES will support the Department in the planning and design of Connecticut's HIT/SMHP. Hours will be tracked for approved billable resources that support this project. HPES will be paid the contract hourly modification hour rate for SMHP planning and design support. HPES will include the HIT/SMHP modification hours in the quarterly modification hour reporting, approval, and invoicing process. Modification hours for HIT/SMHP support will be tracked, reported, and invoiced separately from the base contract modification hour pool.

Change Orders/Modification hours related to the preparation of the HIT Provider Incentive Program (i.e. provider portal home page to house Medicaid EIR communications, provider mailings) will be tracked and invoiced to the Department. HPES will include these modification hours in the quarterly modification hour reporting, approval, and invoicing process. These modification hours will be tracked, reported, and invoiced separately from the base contract modification hour pool.

Design and Planning Payment Schedule

Design Activity	Estimated Delivery Date	Estimated Modification Hours	Estimated Invoice Date	Estimated Invoice Amount Notes
Core MAPIR Design	December 2010	N/A	December 30, 2010	\$74,902 - Invoice amount dependent on number of states in multi-state collaborative
MAPIR integration and customization design	February, 2011	1,500*	April 30, 2011	\$138,000
Provider outreach Postage cost			January 30, 2011	\$2,000 - Estimated postage cost for provider mailings
HIT/SMHP planning, analysis, support, and design		250*	January 30, 2011	\$23,000

* Hours presented as not to exceed estimates

4. Development and Implementation Phase - Provider Incentive Payment Program: The paragraphs below document the components and payment terms for the Development and Implementation phase of the Provider Incentive Payment Program.

- a. *Core MAPIR design:* HPES will develop the MAPIR planning and design deliverable. This deliverable will contain a Requirements Definition Document, a Design Document, and the Project Schedule. The deliverable will be presented to the Multi-State Collaborative for review and approval. Upon deliverable approval by the lead state (Commonwealth of Pennsylvania), DSS will be invoiced for the Connecticut share of the MAPIR design deliverable. The CT MMIS monthly contract invoice process will be utilized to bill the Department for this deliverable. A separate invoice will be created for MAPIR design deliverable.

- b. *Core MAPIR Development:* The HPES MAPIR team will develop the core MAPIR application. Two releases of MAPIR functionality are scheduled, with each release being a payment deliverable. The components of each release/deliverable will consist of technical specifications and source code package, testing results, provider and user documentation. The deliverable will be presented to the Multi-State Collaborative for review and approval, which will be granted by the Collaborative lead state (Commonwealth of Pennsylvania). Upon deliverable approval, DSS will be invoiced for the Connecticut share of the MAPIR Development deliverable. HPES will use the CT MMIS monthly contract invoice process to bill the Department for this deliverable. Separate month end invoices will be created for MAPIR Development deliverables.
- c. *MAPIR integration/customization:* The Connecticut HPES technical team will integrate and customize the core MAPIR application for the CT MMIS. For each MAPIR release, the CT HPES team will implement the changes required to integrate the functionality into the Connecticut MMIS.

HPES will be paid the contract hourly modification hour rate for the development and implementation of MAPIR integration and customization. HPES will include MAPIR modification hours in the quarterly modification hour reporting, approval, and invoicing process. Modification hours for MAPIR will be tracked, reported, and invoiced separately from the base contract modification hour pool.

- d. *Provider outreach/Provider Incentive Program preparation:* HPES will provide provider outreach and incentive program preparation services in support of the incentive payment program as needed and as agreed to by the Department. Prior to incurring any costs for such outreach or preparation services, HPES shall present an estimated budget to the Department for its approval. Upon written approval of the cost estimate, HPES may perform work and incur costs for this aspect of the project but in the event of unanticipated costs overruns, HPES must seek approval from the Department before incurring the additional costs.

Development & Implementation Payment Schedule

Design Activity	Estimated Delivery Date	Estimated Hours	Estimated Invoice Date	Estimated Invoice Amount Notes
Core MAPIR Release 1	February 2011	N/A	February 28, 2011	\$119,843 - Final invoice amount dependent on number of states in multi-state collaborative
MAPIR Release 1 Integration and Customization	April 2011	1,600*	April 30, 2011	\$147,200 - Estimate includes technical resource and project management hours
Core MAPIR Release 2	April 2011	N/A	April 30, 2011	\$104,863 - Final invoice amount dependent on number of states in multi-state collaborative
MAPIR Integration and Customization Release 2	May 2011	1,000*	July 30, 2011	\$92,000 - Estimate includes technical resource and project management hours
Provider outreach incentive payment program preparation				\$1,500 - Estimated cost for additional phone/fax installations

* Hours presented as not to exceed estimates

- c. Provider Incentive Payment Program Operational Support: To support the known operational requirements for the Connecticut Medicaid EHR Provider Incentive Program, three (3) additional IPES Provider Relations staff will be added. These resources will be locally based to support the CT office and will be comprised of two (2) Provider Relations Representatives and one (1) Call Center Representative. The operational expenses for the additional Provider Relations staff are documented in the Operational Support Payment Schedule below. The expenses include travel, and phone/fax line charges.
- f. Responsibilities for the Provider Relations Representative resources will include:
- i. Draft all outreach documentation, training and publication materials
 - ii. Deliver dedicated provider training and informational workshops
 - iii. Provide provider site visits as requested
 - iv. Deliver regular update training to all internal call center staff and internal users
 - v. Assist providers in questions surrounding the Incentive Payment Program, provider eligibility, incentive payment calculations, meaningful use and escalated desk level review inquiries
 - vi. On-going review and updates to all Connecticut Medicaid Incentive Program static content materials

- g. Responsibilities for the Call Center Representative resource will include:
 - i. Front line response/handling of inbound provider contacts
 - ii. Escalation of provider issues to Incentive Program Provider Relations Representatives
 - iii. Coordination of Provider Workshop registrations

HPES will invoice DSS the monthly operational fee, and fixed monthly rate per resource shown in the Operational Support Payment Schedule below. The contract monthly invoice process will be used to bill the Department for these additional resources.

The Department and HPES mutually agree that the number of HPES supplied resources and associated operational fees to support incentive payment operational functions will be established and may be adjusted based on the volume of providers enrolled, and the specific functions the Department determines HPES will support.

Operational Support Payment Schedule

Description	Monthly Rate
Provider Relations Representative	\$6,000
Call Center Representative	\$5,700
Monthly operational fee (Travel, Phone lines and usage)	\$440


- 5. As of the effective date of this Amendment Four, paragraph 5 replaces and modifies the additional services letter signed under Section 1.5 of the MMIS contract titled MLIA Client Call Center Staffing Proposal dated June 29, 2010.
 - a. Based on the reported call volumes from Community Health Network (CHN) and Advanced Behavioral Health (ABH) in support of the SAGA program, HPES added four call center representatives effective July 1, 2010 to accommodate an increased call volume for the SAGA to Medicaid transition. These additional four resources provide a combination of telephone and written correspondence support to the Client Assistance Call Center, and the Provider Assistance Call Center. With the reduction in MLIA client call volume, HPES and DSS have mutually agreed to reduce the number of call center representatives that are billed to DSS. Effective February 1, 2011, HPES will reduce the resource billing to two (2).
 - b. From July 1, 2010 through January 31 2011, HPES will bill DSS a monthly rate of \$5,700 per person, for a total \$22,800 per month for four (4) resources. Effective February 1, 2011, HPES will bill DSS at a monthly rate of \$5,700 per person, for a total \$11,400 per month for two (2) resources. HPES will supply these resources at the per month rate for the term of the MMIS contract, or until a mutually agreed upon end date.

6. As of the effective date of this Amendment Four, paragraph 6 replaces SAGA to Medicaid (MLIA): First Data Bank (FDB) License Proposal agreement dated August 24, 2010.
 - a. Beginning with the September 2010 invoice, and continuing through the January 2011 invoice, the fee for the SAGA FDB license will be reduced to \$3,700 per month. The current fee for this product is \$6,250 per month through September 2010, and beginning in October 2010 the fee increases to \$6,375 per month.
 - b. The FDB license for SAGA will not be renewed in future years, and HPES's billing to DSS for this program license will terminate after the January 2011 invoice.

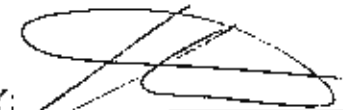
7. Any change orders issued, whether codified in this amendment or otherwise, may be revoked unilaterally by the Department of Social Services provided that notice is given in writing, email sufficient, at least ten (10) days prior to the cancellation of the order.

8. All other terms and conditions of the MMIS Contract and subsequent amendments not addressed in this Amendment remain unchanged and in full force and effect. The parties shall execute this Amendment Four, which shall be scanned and emailed to all parties and retained by the Department, the Contractor, and by Centers for Medicare and Medicaid Services (CMS), to be executed by their duly authorized representatives.


APPROVED:

BY: 
 John McCabe, Director
 Government Healthcare & Human Services
 HP Enterprise Services, LLC

DATE: 02/14/2011

BY: 
 Michael P. Starkowski, Commissioner
 Department of Social Services
 State of Connecticut

DATE: 3/20/11

APPROVED AS TO FORM:  4/20/11
 BY: _____
 Associate Attorney General

**AMENDMENT NUMBER THREE TO
THE STATE OF CONNECTICUT DEPARTMENT OF SOCIAL SERVICES/EDS
INFORMATION SERVICES, LLC CONTRACT
ENTERED INTO ON AUGUST 17, 2005,
FOR THE STATE OF CONNECTICUT'S MEDICAID MANAGEMENT
INFORMATION SYSTEM (MMIS) DESIGN, DEVELOPMENT AND
IMPLEMENTATION AND OPERATIONS CONTRACT**

Whereas, the State of Connecticut Department of Social Services ("State" or "Department") and EDS Information Services, LLC ("EDS") entered into a contract on August 17, 2005, for the design, development, implementation and operations for the State's Medicaid Management Information System ("MMIS Contract"); and

Whereas, the Parties last entered into an amendment to this contract on August 10, 2009; and

Whereas, EDS Information Services, LLC was merged with and into Electronic Data Systems Corporation on December 31, 2007 and as of August 29, 2008 changed its name to Electronic Data Systems, LLC and as of January 1, 2010 changed its name to HP Enterprise Services, LLC ("HP"); and

Whereas, the Department and HP desire to amend the MMIS Contract.

Now, therefore, for and in consideration of the promises to each other as set forth below, the parties agree as follows:

1. This Amendment Number Three ("Amendment Three") is entered into pursuant to Section 1.5, "Contract Modifications," of the MMIS Contract.
2. HP and the State agree that the Contracts are amended by substituting the name HP Enterprise Services, LLC for the name Electronic Data Systems Corporation, and the term HP for the term EDS wherever those names and terms may appear in the Contracts.
3. HP will modify the Connecticut Medicaid Management Information ("MMIS") to support HIPAA Electronic transactions standards new version 5010 and new NCPDP version D.0 as stated in HHS final rule dated January 16, 2009 for Electronic Transaction Standards Part II 45 CFR Part 162.

HP will perform this modification in two phases, an assessment phase and an implementation phase. During the assessment phase, HP will conduct an end to end assessment of the system to determine the scope of work necessary to become 5010/NCPDP D.0 compliant. HP will identify all areas of the system that require modification and any hardware or third party software that is impacted. The primary outputs of the assessment phase will be an implementation Scope of Work document and a detailed estimate for the implementation effort.

During the implementation phase of the project, HP will design, code and test the modifications needed to bring the system into compliance. During this phase provider/vendor outreach and testing plans will be developed and executed. Impacted System, Provider, and user documentation will be updated to reflect the modifications.

Included in the Scope of Work for the 5010 project is the transition of maintenance and modifications necessary to support the Connecticut MMIS HIPAA X12N 834 (Enrollment and disenrollment in a health plan) transaction from DSS to HP. HP will include work to modify the 834 transaction in the 5010 project assessment and implementation activities. In addition, future changes or enhancements to the 834 transaction will be treated as MMIS modifications to be included in the annual contract modification hour pool.

In consideration for the services to be performed, HP shall be paid the contract hourly modification hour rate as stipulated in Pricing Schedule 4 for the assessment and implementation work required to enhance the system. The modification hours for 5010/NCPDP D.0 project will not utilize the existing contract modification hour pool. Hours for this project will be tracked and reported to DSS separately from the current pool. HP estimates the assessment phase will require 2,000 modification hours to complete. The effort for the implementation phase is currently estimated at between 10,000 and 15,000 modification hours. The estimate for the implementation phase will be finalized as part of the assessment.

The 5010/NCDPD D.0 project will be milestone deliverable based. Using the contract monthly invoice process, HP will invoice the Department upon their acceptance of milestone deliverables. The table below documents the deliverables that will be produced during the project.

Deliverable	Phase Created
Transaction Analysis/MMIS Impact Document	Assessment
Implementation Project Schedule	Assessment
Implementation Statement of Work	Assessment
Trading Partner Outreach Plan	Assessment
Design Document/Change Requests	Implementation
System Test Plan	Implementation
Implementation Plan	Implementation
Trading Partner Outreach/Testing	Implementation
System Testing Results	Implementation
System Go-Live	Implementation

For the 5010/NCDPD D.O project HP's billable staff will consist of Project Managers, System Engineers, and experienced Business Analysts. HP and the Department have mutually agreed that testing Business Analyst effort for the 5010 project are billable modifications under the following conditions.

- a) IIP has increased the number of Business Analyst to support the 5010 project
- b) Hours being invoiced are for Business Analyst that have a minimum of 3 years experience in Medicaid testing, analysis, and/or business design.

For the assessment phase an IIP EDI Business Analyst will work with the System Engineers to perform transaction analysis. Hours from the EDI Business Analyst team will be the only Business Analyst billable hours during the assessment phase.

Prior to invoicing billable hours for Business Analyst testing, HP will provide to the State a not to exceed billable hours estimate for review and approval. HP will notify the Department of circumstances that impact this estimate (i.e. scope changes). Hours in excess of the IIP estimate would not be included in the modification hour invoice without prior Department approval.

- 4. HP and the State jointly agree to modify the MMIS Scope of Work (Section C of the RFP). The scope of work is being amended to expand the Retrospective Drug Utilization Review (RetroDUR) program as described in section C.4.7.12 Retrospective Drug Utilization Review Processing Requirements, C.4.7.13, RetroDUR Processing Outputs and C.4.7.15 RetroDUR Operations Task Contractor to pertain to the following volumes:

Pricing Schedule RetroDUR Expansion

Service	Activity	Current work level	Amended work level	Annual charge to DSS for additional services
RetroDUR	Profile review	1000	2000	\$204,250
Lock-in	Profile review	400	800	\$86,450

HP shall invoice the Department one-twelfth (1/12th) of the annual charge each month for the above listed activities.

- 5. HP and the State jointly agree to amend Section 12.10 of the MMIS contract by adding the following sentence:

The contractor shall provide quarterly reporting of modification hour utilization, and hours remaining in the annual modification hour pool. Upon Department approval of the utilization report, the contractor will invoice the Department for any authorized systems engineering hours used in the prior quarter in excess of one fourth of the annual modification hour pool and any residual hours not used in prior contract quarters or years. An end of contract year reconciliation will be conducted to address under or over

modification hour invoicing that occurred in the quarterly process. Adjustments will be credited or invoiced using the monthly invoice process.

6. HP and the State jointly agree to amend Paragraph 12 Section I of Amendment Two to read:

To accommodate an anticipated backlog of Encounter claims, HP and the State jointly agree that Encounter claims processed from July 1, 2009 through September 30, 2010 will not be counted in the transaction billing. No transaction true ups will occur for this time period. For the time period beginning July 1, 2009 through September 30, 2010, HP will invoice the State the monthly transaction fee for the Anticipated Volume Range documented in Pricing Schedule 2, Part 5. This fixed monthly fee will be invoiced independent of the transaction volumes processed during this period. Effective October 1, 2010 and forward, encounter claim transaction volume will be counted and invoiced as documented in Amendment 2, Paragraph 12, Sections G and H.

7. HP and the State jointly agree to amend Paragraph 8 of Amendment Two to modify the monthly operational and excess transaction fees by adding Part 6 ePrescribing Transaction Processing (“ePrescribing Transactions”) to Pricing Schedules 2.c through 2.j.

These Part 6 schedules utilize the same pricing structure as the existing fee-based transactions defined in the MMIS Contract. For transactions counts above or below the anticipated range, a per transaction adjustment factor is defined for each Part 6 schedule. For transaction counts below the anticipated range, there will be a decrease to total price equal to the number of transactions below the range multiplied by the adjustment factor. For transaction counts above the range, there will be an increase to the total price equal to the number of transactions above the range multiplied by the adjustment factor.

The Pricing Schedule for ePrescribing Transactions is set forth in Part 6 schedules included in Pricing Schedules 2.c through 2.j to this Amendment Three and is incorporated into the MMIS Contract by virtue of this Amendment Three as of the Effective Date.

8. HP and the State jointly agree to amend Paragraph 9 of Amendment Two to modify the modification hour reporting and billing process for enhancements to the ePrescribing application. Modification hours will be tracked, reported, and invoiced separately from the base contract modification hours. Modification hours for the ePrescribing application will be reported and invoiced on a quarterly basis. Independent ePrescribing modification hour reporting and invoicing will continue until the Department notifies HP to discontinue. When the Department determines that the ePrescribing modification hours no longer require separate tracking, these hours will be tracked and reported as part of the contract modification hour pool, and reported and invoiced as defined in paragraph 2 of this Amendment 3.

9. Any change orders issued, whether codified in this amendment or otherwise, may be revoked unilaterally by the Department of Social Services provided that notice is given in writing, email sufficient, at least ten (10) days prior to the cancellation of the order.
10. HP and the State jointly agree to add the following clarification related to section 16-D of the attached revised HIPAA language: Connecticut MMIS web site(s) will be used to post information and procedures related to security breaches
11. Previous contract provisions addressing HIPAA shall be deleted and replaced in their entirety with the following language:

Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

- (a) If the Contractor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 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 (hereinafter the "Department") is a "covered entity" as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor, on behalf of the Department, performs functions that involve the use or disclosure of "individually identifiable health information," as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor is a "business associate" of the Department, as that term is defined in 45 C.F.R. § 160.103; and
- (f) The Contractor and the Department 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 (hereinafter the HITECH Act), (Pub. L. 111-5, sections 13400 to 13423), and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.
- (g) Definitions
 - (1) "Breach" shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(1))
 - (2) "Business Associate" shall mean the Contractor.
 - (3) "Covered Entity" shall mean the Department 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 parts 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, limited to information created or received by the Business Associate from or on behalf 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 parts 164, subpart A and C.
 - (15) "Unsecured protected health information" shall have the same meaning as the term as defined in section 13402(h)(1)(A) of HITECH Act. (42 U.S.C. §17932(h)(1)(A)).
- (h) 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 appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
 - (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 to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
- (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, 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.
- (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 agreed to by the parties.
- (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 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 determining Covered Entity's compliance with the Privacy Rule.
- (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 agreed to by the parties, information collected in accordance with clause h. (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. sections 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; or (c) provide a copy of the individual's PHI in an electronic health record, the Business Associate agrees to notify the covered entity, in writing, within two business days of the request.

(15) Business Associate agrees that it shall not, directly or indirectly, receive any remuneration in exchange for PHI of an individual without (1) the written approval of the covered entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract and (2) 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 of a breach of unsecured protected health information, it shall notify the Covered Entity of such breach in accordance with the requirements of section 13402 of HITECH (42 U.S.C. 17932(b)) and the provisions of 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 30 days after the breach is discovered by the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to section 13402 (g) of HITECH (42 U.S.C. 17932(g)). A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate. 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 protected health information 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 brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.
2. A description of the types of unsecured protected health information 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 individuals take to protect themselves from potential harm resulting from the breach.
4. A detailed description of what the Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.
5. Whether a law enforcement official has advised either verbally or in writing the Business Associate that he or she has determined that notification or notice to individuals or the posting required under section 13402 of the HITECH Act would impede a criminal investigation or cause damage to national security and; if so, include contact information for said official.

- D. Business Associate agrees to provide appropriate staffing and have established procedures to ensure that individuals informed by the Covered Entity of a breach by the Business Associate 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.
- E. 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.

(f) 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 Privacy Rule 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).

(g) 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 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.
- (k) **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 Privacy Rule 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.
- (l) **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 clause h. (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 (l)(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 or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with clause h. (10) of this Section of the Contract to the Covered Entity within ten business days of the notice of termination. This provision 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.

(m) Miscellaneous Provisions.

- (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 provisions 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, the Privacy Rule and the Security Rule.

12. The Pricing Schedules referenced herein shall be fully incorporated as part of this Amendment 3, as attached.

13. All other terms and conditions of the MMIS Contract and subsequent amendments not addressed in this Amendment remain unchanged and in full force and effect. The parties shall execute this Amendment Three, which shall be scanned and emailed to all parties and retained by the Department, the Contractor, and by Centers for Medicare and Medicaid Services (CMS), to be executed by their duly authorized representatives.

APPROVED:

BY: Susan D Arthur

Susan D. Arthur, Director
Government Healthcare & Human Services
HP Enterprise Services, LLC

DATE: 5/20/10

BY: [Signature]

Michael P. Starkowski, Commissioner
Department of Social Services
State of Connecticut

DATE: 5/20/10

APPROVED AS TO FORM
BY: [Signature]
Associate Attorney General

6/8/10

**AMENDMENT NUMBER TWO TO
THE STATE OF CONNECTICUT DEPARTMENT OF SOCIAL SERVICES/EDS
INFORMATION SERVICES, LLC CONTRACT
ENTERED INTO ON AUGUST 17, 2005,
FOR THE STATE OF CONNECTICUT'S MEDICAID MANAGEMENT
INFORMATION SYSTEM (MMIS) DESIGN, DEVELOPMENT AND
IMPLEMENTATION AND OPERATIONS CONTRACT**

Whereas, the State of Connecticut Department of Social Services ("State" or "Department") and EDS Information Services, LLC ("EDS") entered into a contract on August 17, 2005, for the design, development, implementation and operations for the State's Medicaid Management Information System ("MMIS Contract"); and

Whereas, the Parties entered into an amendment to this contract on June 18, 2008; and

Whereas, EDS Information Services, LLC was merged with and into Electronic Data Systems Corporation on December 31, 2007 and as of August 29, 2008 changed its name to Electronic Data Systems, LLC; and

Whereas, the Department and EDS desire to amend the MMIS Contract.

Now, therefore, for and in consideration of the promises to each other as set forth below, the parties agree as follows:

1. This Amendment Number Two ("Amendment Two") is entered into pursuant to Section 1.5, "Contract Modifications," of the MMIS Contract.
2. EDS and the State jointly agree to modify the MMIS Scope of Work (Section C of the RFP). The scope of work is being amended to add Electronic Prescribing (ePrescribing) activities, Managed Care Organization (MCO) encounter data processing, and supplemental drug rebate activities.
3. ePrescribing allows prescriber's to electronically send an accurate, error-free and understandable prescription directly to a pharmacy from the point-of-care. EDS will work with RxHub-Surescripts to build an interactive and batch transaction based interface connecting the CT interChange system to the RxHub-Surescripts system as specified below in accordance with the SureScripts-RxHub Participant Implementation Guide for the RxHub PRN Service dated December 12, 2008 . This interface will make DSS' Medical Assistance Program data available to participating providers via the RxHub-Surescripts ePrescribing network.
 - A. EDS will provide to RxHub-Surescripts, client specific benefit and Preferred Drug List (PDL) information as required by DSS which shall include but not be limited to:
 1. PDL Status

2. Preferred Drug List Alternatives
3. Program Coverage Rules Text Message
4. Product Coverage Text Message
5. Product Coverage Exclusion
6. Prior Authorization
7. Quantity Limits
8. Age Limits
9. Gender Limits
10. Resource Web Link
11. Benefit Co-Pay
12. Cross-Reference Detail

- B. EDS will provide the following transactions to RxHub-Surescripts:
 1. The X12N 270/271 Eligibility Request and Response transaction for client eligibility, benefit (formulary), and PDL will be returned to a valid provider.
 2. The NCPDP 8.1 Medication History transaction providing up to 50 paid history prescriptions to be returned to a valid provider.
4. EDS will work with the Department and RxHub-Surescripts to define and develop reporting, and the necessary data maintenance tools and processes in interChange to maintain the data being shared.
 - A. EDS will submit monthly reports to the Department which shall include the following (and such other criteria as agreed to by the parties):
 1. Number of eligibility transactions
 2. Number of medication history transactions
 3. Number of formularies accessed.
 - B. EDS will submit monthly reports to the Department summarizing the following performance levels:
 1. 98% system availability excluding planned outages which are not to exceed 20 hours per month; and
 2. 95% response time of transactions coming from RxHub-Surescripts will be responded to in 3 seconds or less as measured and reported by RxHub.
 - C. EDS will submit monthly progress reports to the Department summarizing the following activities:
 1. Technical requirements and development;
 2. Test results of system modifications;
 3. Provider Outreach Developed and Conducted; and
 4. Production Roll-out (go-live).
 - D. EDS will submit monthly reports to the Department summarizing post go-live activities including the following (and such other criteria as agreed to by the parties): (Summary to include comparison to baseline prior to production roll-out data)
 1. Number of prior authorizations requested; and

2. Number of participating pharmacies accepting e-prescriptions from RxHub.
- E. EDS will submit monthly reports to the Department summarizing outcome measures of project activities: (Summary to include comparison to baseline prior to production roll-out data)
1. PDL prescriber patterns;
 2. Generic utilization;
 3. Drug expense per Medicaid beneficiary; and
 4. EDS prior authorization administrative costs.
5. EDS shall adhere to all activities outlined in the EDS ePrescribing proposal dated January 7, 2009 attached here as Exhibit A.
 6. The go live date of ePrescribing will be September 1, 2009.
 7. An implementation fee for the scope defined in paragraphs 3 through 6 will be invoiced to DSS and paid in accordance with Section XIII of the MMIS contract. This fee will cover the RxHub-Surescripts startup and implementation fees, EDS networking configuration and setup, project management, design, construction and testing support. EDS will invoice DSS upon acceptance by the DSS of the milestone deliverables. The fee will be a combination of fixed costs and billable hours. Payments will be invoiced upon completion and acceptance of each milestone by DSS as shown below. Payments are funded under a Federal Grant for ePrescribing.

Milestone	Deliverables	Fixed fee	Estimated billable hours expense*
Project start up	<ul style="list-style-type: none"> ✚ Project plan ✚ EDS executed subcontract with RxHub-Surescripts 	\$30,000	\$59,400
Business Design	<ul style="list-style-type: none"> ✚ Business design document 	N/A	\$99,000
Technical Design	<ul style="list-style-type: none"> ✚ Technical Design document 	N/A	\$79,200
Test plan	<ul style="list-style-type: none"> ✚ Test plan ✚ Connectivity with RxHub-Surescripts 	N/A	\$138,600
Test results	<ul style="list-style-type: none"> ✚ Completed test cases 	N/A	\$99,000
Go Live	<ul style="list-style-type: none"> ✚ Production acceptance by DSS 	\$30,000	\$39,600

Total	*	\$60,000	\$514,800	\$574,800.00
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* Hours include both technical and non-technical resources. Estimate is provided as a guideline only. Billing will reflect actual hours used. Total billing hours will not exceed 5,850 hours without written approval from DSS.

- The operational monthly fee for transactions and on-going support for ePrescribing is \$11,500 per month. EDS will invoice DSS the operational monthly fee at the end of each month beginning September 1, 2009. This fee will include ten thousand (10,000) e-Prescribing transactions per month, operational support, and network related charges and maintenance. Transactions in excess of 10,000 per month will be invoiced monthly to DSS at thirty-five cents (\$.35) per transaction. For invoicing purposes, transactions will be counted as one transaction per ePrescribing event. The client eligibility transaction generated by RxHub-Surescripts and responded to by EDS will be used in determining the transaction count. Formulary/PDL and client medication history transactions will not be counted as separate transactions and therefore shall have no fees associated with that function.

Description	Monthly Fee	Comments
Operational Fee	\$11,500	Includes 10,000 transaction per month
Excess transaction fee	\$.35 per transaction	Transactions over 10,000 per month

- Future modifications to the ePrescribing solution will be treated as interChange modifications to be included in the annual contract modification hour pool as defined in Contract section 12.9 Maintenance and Modifications Task.
- This amendment also includes support for the development of a data repository and health record exchange process being developed for Connecticut's Comprehensive Active Medication Record (CAMP) and the Medication Therapy Management (MTM) HIE initiatives by the University of Connecticut School of Pharmacy. This work will be tracked and billed separately from the ePrescribing implementation fee described in section 8, using the same hourly rate. Based on the current understanding of the requirements, EDS expects this effort to take no more than 1,000 total billing hours. EDS will not exceed 1,000 hours for this work without prior written approval from DSS. Once the scope, design, estimates, and collective timelines have been established for this initiative, EDS will identify the additional billable expense, if any, for ongoing operation of these functions and provide it to DSS for approval prior to initiating work.
- In an effort to more accurately reflect the claim volumes experienced by EDS with recent programmatic changes by the Department, EDS and the State jointly agree to the revised pricing schedules to RFP Section D.3.2 Operations, Maintenance, Modifications and Turnover Tasks Revised Pricing Schedules 2c-Part 1 through 2g-Part 4 for contract years Three through Seven (October 1 2009 – September 30 2014) and Revised Pricing Schedules 2h-Part 1 through 2j –Part 4 optional operations years One through Three (October 1, 2014 – September 30, 2017). The revised pricing is in response to the following:

- A. With the programmatic changes that have occurred, the anticipated transaction volume range defined in the MMIS contract/RFP no longer cover the production claims transaction volumes being processed in the MMIS. The transaction volume range and the fixed pricing associated with these transactions are being adjusted to reflect current and projected claim volumes for Pharmacy and Non-Pharmacy claims.
 - B. The number of clients enrolled in the ConnPACE program has declined significantly from volume that was projected when the MMIS RFP was written. The anticipated enrollment volume range defined in the contract/RFP no longer covers the production enrollments being managed in the MMIS. The average monthly eligible enrollment count, and the fixed pricing associated with these counts are being adjusted to reflect current and projected production volumes. In addition, this Amendment Two clarifies that volume is based on average monthly eligible enrollment counts.
 - C. The number of Pharmacy claims requiring Prior Authorization has been reduced significantly from what was projected when the MMIS RFP was written. The anticipated Prior Authorization volume range defined in the contract/RFP no longer covers the production authorizations being worked by the EDS Prior Authorization unit. The Pharmacy Prior Authorization transaction volume and the fixed pricing associated with these transactions are being adjusted to reflect current and projected production volumes.
 - D. Revised pricing schedules have been created and are included in Exhibit B to this Amendment Two for the aforementioned contract years.
 - E. Pricing and contract payment schedule for these pricing schedule modifications are set forth as Revised Pricing Schedules 2c-Part 1 through 2j-Part 4 to this Amendment Two and is incorporated into this MMIS Contract by virtue of this Amendment Two as of the Effective Date.
12. Additionally, EDS and the State jointly agree to amend the contract to include the addition of Managed Care Organization (MCO) encounter claims processing in the following ways:
- A. EDS will begin accepting and processing HIPAA compliant encounter claims beginning July 1, 2009. The HIPAA compliant encounter claims will include the 837 X12n Professional and Institutional claim transactions.
 - B. EDS will accept and process HIPAA compliant encounter claim transactions under a defined set of rules, editing, pricing and reporting as defined by the Department. Results of the editing will be returned to the appropriate managed care organization.
 - C. Encounter processing will also include:
 - i. Encounter adjustment processing;

- ii. Operational and technical coordination with the MCOs, DSS Managed Care unit, and the Data Warehouse team;
 - iii. System testing;
 - iv. System maintenance;
 - v. Enrolling and maintaining Managed Care Organization network only providers;
 - vi. Producing extracts to the data warehouse; and
 - vii. Electronic Data Interchange (EDI) support.
- D. Encounter related system modifications will be performed using the contract modification hours as defined in Contract Section 12.9 and revised by Section K below of this Amendment Two.
- E. The pricing schedule for the Encounter Claims Processing ("Encounter Claims") is set forth in Part 5 schedules included in Pricing Schedules 2.b. through 2.j to this Amendment Two and is incorporated into the MMIS Contract by virtue of this Amendment Two as of the Effective Date.
- F. A one-time initial payment of THREE HUNDRED THOUSAND DOLLARS (\$300,000) has been invoiced to the State per a change order request and the hardware and software has been purchased. This fee will cover the additional hardware and software required to process the anticipated Encounter transaction volume. This hardware and software includes; additional disk storage, additional central processing units (CPU), and additional database licenses.
- G. Pricing Schedules 2.b. through 2.j. are modified by the addition of Part 5 schedules for Encounter Claims Processing. These Part 5 schedules utilize the same pricing structure as the existing fee-based transactions defined in the MMIS Contract. For transactions counts above or below the anticipated range, a per transaction adjustment factor is defined for each Part 5 schedule. For transaction counts below the anticipated range, there will be a decrease to total price equal to the number of transactions below the range multiplied by the adjustment factor. For transaction counts above the range, there will be an increase to the total price equal to the number of transactions above the range multiplied by the adjustment factor.
- H. Payment adjustments will be evaluated at the end of each contract year, and will be ~~billed or credited on the invoice for the month following the contract year end.~~ If the transaction volume varies out of the anticipated range threshold by 20% or more, the payment adjustment process will occur quarterly and will be billed or credited on the month(s) following each contract quarter end.
- I. To accommodate an anticipated backlog of encounters, EDS and the State jointly agree to make no volume based payment adjustments for the first six months of encounter processing July 1, 2009 through December 31, 2009. EDS will accept and process any encounters with a service date of September 1, 2008 or later.

18. Effective February 1, 2008 the following services were rendered and continue to be performed:

- A. The First DataBank license was modified to accommodate the addition of the IIUSKY B and SAGA programs. The annual fees for the FBD license are billed monthly as well.

February 2008 - September 2008	\$120,000
October 2008 - September 2009	\$147,000
October 2009 - September 2010	\$150,000
October 2010 - September 2011	\$153,000
October 2011 - September 2012	\$156,000
October 2012 - September 2013	\$160,000
October 2013 - September 2014	\$164,000

- B. Additionally, another permanent Drug Rebate Analyst was added to staff and is billed monthly. This analyst was hired effective March 1, 2008 and is billed at the monthly rate of \$6,000.

19. Effective August 1, 2008 the Department began incurring additional FDB Fees for the Charter Oak program.

- A. The First DataBank license was modified to accommodate the addition of the Charter Oak Program. First DataBank licensing is composed of an annual base fee, and an annual volume fee if the per month claim transactions exceed 8,500.

- B. Based on the fees listed in column a below (claims less than 8,500 per month), EDS invoices DSS the annualized FBD license fee on a monthly basis. If the monthly Charter Oak claim volumes exceed 8,500, the fees shown in column b will be billed in subsequent contract years.

Contract Year	Annual Fee claim volumes < 8,500 month (a)	Annual Fee for claim volumes > 8,500 per month (b)
August 2008 - September 2009	\$57,450	\$73,500
October 2009 - September 2010	\$58,950	\$75,000
October 2010 - September 2011	\$59,950	\$76,500
October 2011 - September 2012	\$61,950	\$78,000
October 2012 - September 2013	\$63,950	\$80,000
October 2013 - September 2014	\$65,950	\$82,000

20. Effective May 1, 2009, additional drug rebate resources began to be used by EDS to provide an additional staff member on the PPS team to perform or coordinate the following tasks. EDS bills DSS a monthly rate of \$6,000 for this resource. This rate is fully incorporated above by the language dealing with supplemental drug rebate programs and shall therefore no longer apply as a change order once this amendment has been fully executed.
21. Effective March 1, 2009 and ending June 30, 2009, EDS shall provide additional staff for training and other activities as defined below associated with helping dental providers with the claims submission process. EDS shall add two experienced Provider Relations Representatives from EDS North East Medicaid accounts well versed in dental claim submission and claim issue resolution to support this initiative through the end of the current fiscal year, June 30, 2009 or until the budgeted amount (\$50,000.00) for this project is reached. EDS bills DSS a monthly rate of \$16,000.00 per month for these resources which provide a combination of on-site training and remote telephone support. The rate includes the cost for the staff members and their associated travel costs.
- A. The scope of work to be provided under this initiative is as follows:
- i. Provide onsite office visits by the Provider Relations Representatives to individual providers or provider groups to train office staff on the use of the dental Web claim submission application, the EDS Provider Electronic Solutions software, or paper claim submission (if desired by practitioner);
 - ii. Provide scheduled group seminar training sessions to cover the same as #1 above;

- iii. Assist providers in resolving billing issues or problems;
- iv. Provide billing assistance and instructions via telephone;
- v. Provide claim resolution assistance via telephone;
- vi. Develop and provide additional Provider "HELP" documentation;
- vii. Coordinate with Provider Relations and the Provider Assistance Center staff; and
- viii. Provide a monthly activity report that provides a detailed daily accounting of:
 - a. Provider contacted (including NPI);
 - b. Type of contact (telephone, on site, seminar);
 - c. Time spent with the provider (in minutes, hours, days);
 - d. Type of assistance provided (claim submission via the Web, via EDS software, via Dental paper, remittance advice assistance, claim errors & outcomes, PCARS, etc.);
 - e. Problem which caused the error (i.e. no business trading partner agreement; illegible hand writing, technical issue, etc.); and
 - f. Issue corrected (Yes or No, if NO, why not).

B. Any production of materials required will be reimbursed by DSS in addition to the \$50,000.00 for staff and telephone support but not to exceed \$10,000.00. All materials must be approved by the Department prior to production.

22. Any change orders issued, whether codified in this amendment or otherwise, may be revoked unilaterally by the Department of Social Services provided that notice is given in writing, email sufficient, at least ten (10) days prior to the cancellation of the order.

23. Previous contract provisions addressing C.G.S. §§ 4a-60 and 4a-60a shall refer to the most recent iteration of the statute reprinted below and any change to applicable regulations, rules, and/or laws, both State and Federal, shall be adhered to by both parties.

A. Non-discrimination. References in this section to "contract" shall mean this Contract and references to "contractor" shall mean the Contractor.

(a) The following subsections are set forth here as required by section 4a-60 of the Connecticut General Statutes:

(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 race, color, religious creed, age, marital status, national origin, ancestry, sex, 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. 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, 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; (2) 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; (3) 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 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; (4) the contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f; (5) 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 section 46a-56.

- (b) 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 project.
- (c) "Minority business enterprise" means any small contractor or supplier of materials fifty-one per cent 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 section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "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.
- (d) 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.
- (e) The contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.
- (f) The contractor shall include the provisions of section A above 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 section 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.

(g) The following subsections are set forth here as required by section 4a-60a of the Connecticut General Statutes:

(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 of 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 section 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 section 46a-56.

(h) The contractor shall include the provisions of section (g) above 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 section 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.

For the purposes of this entire Non-Discrimination section, "contract" includes any extension or modification of the contract, "contractor" includes any successors or assigns of the contractor, "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced, and "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. For the purposes of this section, "contract" does 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).

24. All other terms and conditions of the MMIS Contract not addressed in this Amendment remain unchanged and in full force and effect. The parties have caused five originals of

this Amendment Four, two of which are retained by the Department, two of which are retained by the Contractor, and one of which is retained by Centers for Medicare and Medicaid Services (CMS), to be executed by their duly authorized representatives.

APPROVED:

BY: Susan D Arthur

Susan D. Arthur, Director
Government Healthcare & Human Services
Electronic Data Systems, LLC

DATE: 7/16/09

BY: [Signature] 7/21/09

Michael P. Starkowski, Commissioner
Department of Social Services
State of Connecticut

DATE: 8/17/09

APPROVED AS TO FORM:
BY: [Signature]
Associate Attorney General

**AMENDMENT NUMBER ONE TO
THE STATE OF CONNECTICUT DEPARTMENT OF SOCIAL SERVICES/EDS
INFORMATION SERVICES, LLC CONTRACT
ENTERED INTO ON AUGUST 17, 2005,
FOR THE STATE OF CONNECTICUT'S MEDICAID MANAGEMENT
INFORMATION SYSTEM (MMIS) DESIGN, DEVELOPMENT AND
IMPLEMENTATION AND OPERATIONS CONTRACT**

Whereas, the State of Connecticut Department of Social Services ("State" or "Department") and EDS Information Services, LLC ("EDS") entered into a contract on August 17, 2005, for the design, development, implementation and operations for the State's Medicaid Management Information System ("MMIS Contract"); and

Whereas, the Department and EDS desire to amend the MMIS Contract in certain respects.

Now, therefore, for and in consideration of the promises to each other as set forth below, the parties agree as follows:

1. This Amendment Number One ("Amendment One") is entered into pursuant to Section 1.5, "Contract Modifications" of the MMIS Contract.
2. EDS and the State jointly agree to modify the Contract Term section 1.4.b. The start date of operations is modified to February 1, 2008.
3. To amend Section I GENERAL CONTRACT PROVISIONS with the addition of the following terms:
 - A. **Executive Order No. 7C: Contracting Standards Board.** This Contract is subject to provisions of Executive Order No. 7C of Governor M. Jodi Rell, promulgated on July 13, 2006. The Parties to this Contract, as part of the consideration hereof, agree that:
 1. The State Contracting Standards Board ("Board") may review this Contract and recommend to the state Contracting agency termination of this Contract for cause. The State Contracting agency shall consider the recommendations and act as required or permitted in accordance with the Contract and applicable law. The Board shall provide the results of its review, together with its recommendations, to the state Contracting agency and any other affected party in accordance with the notice provisions in the Contract not later than fifteen (15) days after the Board finalizes its recommendation. For the purposes of this Section, "for cause" means: (A) a violation of the State Ethics Code (Chap. 10 of the general statutes) or section 4a-100 of the general statutes or (B) wanton or reckless disregard of any state Contracting and procurement process by any person substantially involved in such Contract or state Contracting agency.
 2. For purposes of this Section, "Contract" shall not include real property transactions involving less than a fee simple interest or financial assistance comprised of state or federal funds, the form of which may include but is not limited to grants, loans, loan guarantees, and participation interests in loans, equity investments and tax credit programs. Notwithstanding the foregoing, the

Board shall not have any authority to recommend the termination of a Contract for the sale or purchase of a fee simple interest in real property following transfer of title.

3. Notwithstanding the Contract value listed in sections 4-250 and 4-252 of the Conn. Gen. Stat. and section 8 of Executive Order Number 1, all State Contracts between state agencies and private entities with a value of \$50,000 (fifty thousand dollars) or more in a calendar or fiscal year shall comply with the gift and campaign contribution certification requirements of section 4-252 of the Conn. Gen. Stat. and section 8 of Executive Order Number 1. For purposes of this section, the term "certification" shall include the campaign contribution and annual gift affidavits required by section 8 of Executive Order Number 1.

B. **Executive Order No. 14: Procurement of cleaning products and services.** This Agreement is subject to the provisions of Executive Order No. 14 of Governor M. Jodi Rell promulgated April 17, 2006. Pursuant to this Executive Order, the contractor shall use cleaning and/or sanitizing products having properties that minimize potential impacts on human health and the environment, consistent with maintaining clean and sanitary facilities.

C. **Campaign Contribution Restrictions.** On February 8, 2007, Governor Rell signed into law Public Act 07-1, An Act Concerning the State Contractor Contribution Ban and Gifts to State and Quasi-Public Agencies. For all State contracts as defined in P.A. 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this Agreement expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice. See SEEC Form 11.

4. To amend Section V - PERSONNEL with the addition of the following term:

A. **Whistleblowing.** This Agreement is subject to the provisions of § 4-61dd of the Connecticut General Statutes. 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 the provisions of subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of this Agreement. 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 provisions of the statute relating to large state Contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.

5. DSS and FDS have redefined the tasks associated with deliverables based upon a two-phased implementation. Section 12.1 DDI Phase – Pricing and Section 12.2 DDI Phase – ConnPACE Enrollment/Re-enrollment Pricing for Milestones 2.2, 4.2 and 5.4 are modified as follows:

Milestone	Core MMIS Total	MMIS 10% Retainage	MMIS Payment Minus Retainage
Section 12.1 MILESTONE: 2.2 Dept Approval of Phase I Implementation Integration and System Testing Results	\$7,081,557	\$708,156	\$6,373,401
Section 12.1 MILESTONE: 2.2a Dept Approval of Phase II Implementation Integration and System Testing Results	\$372,714	\$37,271	\$335,442
Section 12.1 MILESTONE: 4.2 Dept Approval of All Phase I Implementation Acceptance Test Resolutions Documents	\$4,022,452	\$402,245	\$3,620,207
Section 12.1 MILESTONE: 4.2a Dept Approval of All Phase II Implementation Acceptance Test Resolutions Documents	\$211,708	\$21,171	\$190,537
Section 12.1 MILESTONE: 5.4 MMIS fully operational for all claim types Phase I; Dept Approval of completion of training	\$933,873	\$0	\$933,873
Section 12.1 MILESTONE: 5.4a MMIS fully operational Phase II	\$49,151	\$0	\$49,151

Milestone	ConnPACE Total	ConnPACE 10% Retainage	ConnPACE Payment Minus Retainage
Section 12.2 MILESTONE: 2.2 Dept Approval of Phase I Integration and System Testing Results	\$200,110	\$20,011	\$180,099
Section 12.2 MILESTONE: 2.2a Dept Approval of Phase II Integration and System Testing Results	\$10,532	\$1,053	\$9,479
Section 12.2 MILESTONE: 4.2 Dept Approval of All Phase I Acceptance Test Resolutions Documents	\$113,667	\$11,367	\$102,300
Section 12.2 MILESTONE: 4.2a Dept Approval of All Phase II Acceptance Test Resolutions Documents	\$5,982	\$598	\$5,384
Section 12.2 MILESTONE 5.4: MMIS fully operational for Phase I ConnPACE enrollment/reenrollment processing; Dept approval of completion of training	\$33,901	\$0	\$33,901
Section 12.2 MILESTONE: 5.4a MMIS fully operational for Phase II ConnPACE enrollment/reenrollment processing	\$1,784	\$0	\$1,784

6. Section 12.9 Maintenance and Modifications Task subpart b is amended for the period of February 1, 2008 through September 30, 2008 in that the State will have access to eight thousand (8,000) actual hours of systems engineering support. All modification hours attributed to the eight thousand (8,000) hour pool must be reported, by system change request, with an estimated hourly cost to ascertain the estimated cost associated with each system change request, in hardcopy and electronic media, monthly, in a format to be determined by the State, and are subject to audit. Hours will be used and can only be credited against the 8,000-actual-hour pool for work performed on State --approved

change requests. For each hour that is not used in the period of February 1, 2008 through September 30, 2008, the State shall have the hours rolled over to the next contract year or any subsequent option or extension years. Section 12.9 subpart b remains unchanged for all subsequent contract years beginning October 1, 2008.

7. Pricing Schedules 2.a, Operations Phase Total Fixed Price for Operations, Maintenance, Modifications and Turnover Tasks Year 1 (October 1, 2007 – September 30, 2008) Part 1 Pharmacy, Part 2 Non-Pharmacy, Part 3 ConnPACE Enrollment/Reenrollment and Part 4 Pharmacy Prior Authorization are replaced to reflect the start date of operations of February 1, 2008 through September 30, 2008 to reflect Year 1.
8. All other terms and conditions of the MMIS Contract not addressed in this Amendment remain unchanged and in full force and effect. The parties have caused five originals of this Amendment One, two of which are retained by the Department, two of which are retained by the Contractor, and one of which is retained by Centers for Medicare and Medicaid Services (CMS), to be executed by their duly authorized representatives.

This Amendment is entered into by the authority of Sections 4-8, 17b-2, 17b-3 and 176-495 of the General Statutes of Connecticut.

APPROVED:

BY: Susan D. Arthur

Susan D. Arthur, Director
Government Healthcare & Human Services
EDS Global Healthcare

DATE: 1/22/08

BY: [Signature]

Michael P. Starkowski, Commissioner
Department of Social Services
State of Connecticut

DATE: 2/17/08

APPROVED AS TO FORM:
BY: [Signature]
Associate Attorney General

8/26/06

DECLARATIONS

This Medicaid Management Information System (MMIS) Design, Development and Implementation and Operations Contract entered into this 17th day of August, 2005 hereinafter referred to as the "Contract" or "contract" is made by and between the State of Connecticut Department of Social Services, hereinafter referred to as the "State" or the "Department", located at 25 Sigourney Street, Hartford, Connecticut 06106 and EDS Information Services, LLC hereinafter referred to as "Vendor" or "Contractor" or "contractor" having its principal place of business at 5400 Legacy Drive, Plano, Texas 75024.

PREAMBLE

WHEREAS, the Department, through its Office of Contract Administration, issued a Request for Proposal with the issue date of March 8, 2005, entitled "STATE OF CONNECTICUT – DEPARTMENT OF SOCIAL SERVICES – MEDICAID MANAGEMENT INFORMATION SYSTEM ("MMIS"); and

WHEREAS, the Department, through its Office of Contract Administration issued an amendment to the MMIS RFP with the issue date of April 8, 2005 and a second amendment to the MMIS RFP with the issue date of April 21, 2005; and

WHEREAS, prior to the closing date and time for receipt of proposals required by the RFP, EDS submitted a proposal entitled "A Proposal for the Medicaid Management Information System (MMIS) Replacement Project" dated May 6, 2005, hereinafter referred to as the "Proposal" or "proposal"; and

WHEREAS, as required by the RFP the proposal is comprised of both a Technical proposal (Volumes I, II and III) and a Cost proposal; and

WHEREAS, Volume I of the Technical proposal includes EDS' acknowledgment of the receipt of the amendments to the RFP; and

WHEREAS, the Department, pursuant to a letter dated July 5, 2005, awarded EDS the right to negotiate a contract with the Department for the MMIS; and

WHEREAS, negotiations were conducted between the Department and EDS which resulted in modifications to the proposal at the request of the Department which are identified throughout the proposal as "Revised August 2005" and are incorporated therein; and

WHEREAS, the Department and EDS have concluded negotiations and have mutually agreed that EDS shall design, develop, implement, operate and maintain a MMIS to support the Connecticut Medical Assistance Program (the "Connecticut MMIS" or the "CT MMIS") in accordance with the MMIS RFP as amended, EDS' proposal as revised and the terms contained herein.

NOW THEREFORE, for good and valuable consideration, the Department and EDS agree as follows:

SECTION 1 : GENERAL CONTRACT PROVISIONS

1.1 Contract Composition

The component parts of this Contract between the Department and the Contractor shall consist of:

- a. This Medicaid Management Information System Design, Development and Implementation and Operations Contract signed by all parties and approved by the Centers for Medicare & Medicaid Services (CMS), and any subsequent amendments to that document; and
- b. the MMIS RFP, inclusive of appendices and exhibits and;
- c. any amendments to the MMIS RFP as incorporated into the RFP identified as "Revised August 2005"; and
- d. the Contractor's proposal and any written clarifications or representations incorporated as part of the procurement process, hereinafter referred to as the "Proposal" and identified throughout the proposal as "Revised August 2005".

1.2 Order of Precedence

- a. The Department and the Contractor agree that the order of precedence among the contract components shall be, first, this Contract; second, the MMIS RFP and any amendments to it; third, the Contractor's proposal, including any clarifications requested and incorporated therein by the State of Connecticut.
- b. In the event of a conflict in language between the documents referenced in subsection a above, the provisions and requirements set forth and/or referenced in the contract, and if not set forth in this Contract then the MMIS RFP shall govern. In the event that an issue is addressed in the Proposal that is not addressed in the MMIS RFP, no conflict in language shall be deemed to occur. However, the Department reserves the right to clarify any contractual relationship in writing, with the concurrence of the Contractor, and such written clarification shall govern in case of conflict with the applicable requirements stated in the MMIS RFP. In all other matters not affected by the written clarifications, if any, the MMIS RFP shall govern.

- c. Features of the system, as presented by the Contractor in the Proposal but not required by the MMIS RFP, may be used at the option of the Department.

1.3 New System Requirements Established by the Technical and Cost Proposal

If the Contractor has offered, in its Technical and Cost Proposal, to meet requirements which exceed (are more stringent than) RFP requirements, the Department will be considered to have accepted this offer of more stringent requirements (unless specific technical proposal requirements are rejected by the Department) by award of the Agreement to the Contractor. Therefore, unless superseded by the contract language herein and specifically identified as such, the requirements contained in the Contractor's Technical and Cost Proposal shall constitute the basis for the measurement of Contractor performance and shall govern the applicability of any other legal remedy available to the Department. Under no circumstances shall requirements that are less stringent than RFP requirements be accepted or become a part of the Agreement unless so negotiated by the Department.

1.4 Contract Term

- a. The initial contract term shall begin on the date it is approved by the Centers for Medicare and Medicaid Services ("CMS") and signed by the Attorney General of the State of Connecticut, or his designated representative, and run through the Contract Period defined in Section 1.4b below. The Contractor shall not commence work, or commit funds, or incur costs, or in any way act to obligate the State of Connecticut as if he/she were the Contractor until so notified in writing that the Attorney General of the State of Connecticut, or his designated representative, has approved the contract with the Contractor.
- b. Contract Period - The base contract period shall cover all MMIS development and Contractor start-up activities and beginning October 1, 2007, seven (7) full years of operations through October 1, 2014. Up to three (3) additional one-year contract extensions, beyond October 1, 2014, will be available at the sole option of the Department, subject to successful negotiation. By mutual agreement of the parties, extensions of less than a full year may be negotiated.
- c. Extensions - In the event that the Department elects to extend the contract, notice shall be sent to the Contractor one hundred eighty (180) calendar days prior to the end of the base contract period and for each subsequent option year. If a decision is made not to extend the contract, notice shall also be sent to the Contractor one hundred eighty (180) calendar days prior to the end of that contract period, and the Contractor shall then complete all remaining Turnover Task responsibilities specified in RFP

Section C.9.2. All contract extensions shall be contingent upon approval from CMS.

1.5 Contract Modifications

- a. The Contractor may make additional services available to the Department on a time and materials, per diem, or other mutually acceptable financial basis as negotiated by project or activity. These activities are anticipated to be in support of state health care initiatives, and may include clerical support to eliminate state backlogs and outreach efforts. The Contractor and the Department understand that these additional services may include funding from state only programs or grants.
- b. Formal contract amendments will be negotiated by the State with the Contractor whenever necessary to address changes to the terms and conditions, costs of, or scope of work set forth in Section C on pages 23 through 226 of the MMIS RFP Revised August 2005 included under the contract. An approved contract amendment means one approved by the Department, the Contractor, and all other applicable State and Federal agencies prior to the effective date of such amendment.
- c. The Department may use a contract amendment to reduce or increase contract costs through changes in the scope of work as set forth in Section C of the RFP. If any such change affects costs or the time required to perform other parts of the contract, an equitable adjustment as mutually determined by the Department and the Contractor may be made in the payment provisions or delivery schedule or both. Failure to agree to an equitable adjustment shall be considered a dispute under the provisions of this contract.
- d. Either the Department or the Contractor may request expansion of the scope of work covered by the contract or additional compensation in excess of the amounts set forth herein for performance of this contract through a contract amendment. This request may be based on new requirements resulting from changes in State or Federal regulations and may require enhanced Federal funding support to implement. In general, changes requiring system modifications shall be performed by the Contractor as part of the Maintenance and Modifications Task support and shall not require a contract amendment or additional funding.
- e. The Contractor shall submit to the Department a formal proposal in response to or to initiate a request for expansion of the contract or to implement major system changes that will require an approved Advance Planning Document. The proposal will identify any additional staffing requirements and will present a work plan for the effort and an estimated budget.

- f. Any expansion of work which results in a price change requires an approved contract amendment unless the activities or service that are requested are within the general scope of work of a Medicaid Management Information System MMIS contract and, for which no FFP will be claimed, and for which additional compensation will be paid. No price change that results in additional payments to the Contractor will be effected without proven demonstration, when requested by the Department.
- g. No amendment to this Agreement shall be effective unless it is signed by authorized representatives of both parties, is approved by CMS, is subject to appropriations and authorizations, and is approved by the State of Connecticut Attorney General or his designated representative.

1.6 Contract Administration and Management

- a. The contract shall be administered for the State by the Department of Social Services (the Department). The Department's Commissioner shall name a Department MMIS Project Director to manage the Department's responsibilities during the Design, Development, and Implementation Phase ("DDI Phase") and the Operations Phase. The Department MMIS Project Director will be responsible for ensuring that the RFP and contract comply with all procurement policies of the State of Connecticut, for monitoring compliance with contract terms and conditions, for negotiating any contract amendments, and for any related contractual issues. In addition, the Department MMIS Project Director is responsible for coordination and accountability with external State and Federal agencies and for monitoring and approval, in conjunction with the MMIS Project Manager, of Contractor activities during the DDI Phase.
- b. During the Operations Phase of the contract, the Department MMIS Project Director will maintain ongoing responsibility for contract monitoring and Contractor compliance with the terms and conditions of the contract.
- c. The Department MMIS Project Director is responsible for the overall coordination, design, and implementation of the project contemplated herein. The Department MMIS Project Director or designee will have responsibility for final approval for each deliverable completed by the Contractor.
- d. The Department MMIS Project Manager will have day-to-day responsibility for the direction of the project and will be the Contractor's primary liaison in working with other Department staff. The Department MMIS Project Manager or designee will initially receive and review all

Contractor progress reports and deliverables, oversee scheduling of meetings with Department staff, and maintain first-line administrative responsibility for the contract. In no instance shall the Contractor refer any matter to any other Department official unless initial contact, both verbal and in writing, regarding the matter has been presented to the Department MMIS Project Manager. The Department MMIS Project Manager or designee will chair the weekly status meetings during the DDI Phase and attend all formal project walkthroughs.

- e. Any direction, written or oral, by the Department MMIS Project Manager and the Department MMIS Project Director, shall be binding on the Contractor. Whenever the Department is required by the terms of the contract to provide written notice to the Contractor, the Department MMIS Project Director or Project Manager will sign such notice. All notices regarding the failure to meet performance requirements and any assessments of damages under the provisions set forth in this chapter will be issued by the Department Contract Administrator.
- f. The Contractor shall designate a Contract Manager who shall have the authority to enter into any amendments on behalf of the Contractor and otherwise commit the Contractor to any course of action, undertaking, obligation, or responsibility in connection with the Contractor's performance of this Agreement.
- g. The Contractor shall designate a Project Manager who shall have day-to-day responsibility for supervising the performance of the Contractor's obligations under the Agreement. The Contractor shall not change the designation of its Contract Manager or its Project Manager without the Department's prior written approval, which approval shall not be unreasonably delayed or withheld.

1.7 Notices

- a. Wherever under this contract one party is required to give notice to the other, such notice shall be deemed given upon delivery, if delivered by hand (in which case a signed receipt will be obtained), or three (3) days after posting if sent by registered or certified mail, return receipt requested. Notices shall be addressed as follows:

- i. In case of notice to the Contractor:

EDS
195 Scott Swamp Road
Farmington, CT 06032-3124
Attention: Barbara Pattison, Account Manager
Email: Barbara.Pattison@edsEDS.com

With Copies to:

EDS
General Counsel
H3-3A-05
5400 Legacy Drive
Plano, TX 75024
Attention: EDS Legal Affairs

ii. In case of notice to the Department:

Department of Social Services
Medical Administration Operations
25 Sigourney Street, 11th Floor
Hartford, CT 06106
Attention: Marcia Mains, Director
Phone: 860-424-5219
Fax: 860-951-9544
E-mail: marcia.mains@po.state.ct.us

With copies to:

Department of Social Services
Medical Administration Operations
25 Sigourney Street, 11th Floor
Hartford, CT 06106
Attention: Mark Heuschkel, Assistant Project Manager
Phone: 860-424-5347
Fax: 860-951-9544
E-mail: mark.heuschkel@po.state.ct.us

Department of Social Services
Contract Procurement
25 Sigourney Street, 9th Floor
Hartford, CT 06106
Attention: Kathleen M. Brennan, Director
Phone: 860-424-5693
Fax: 860-424-4953
E-mail: kathleen.brennan@po.state.ct.us

- b. Said notices shall become effective on the date of receipt or the date specified in the notice, whichever comes later. Either party may change its address for notification purposes by mailing a notice stating the change and setting forth the new address, which shall be effective on the tenth (10th) day following receipt.

1.8 Location of Contractor Facilities

- a. The Contractor shall maintain an office in Connecticut and within a ten (10) mile radius of the Hartford, Connecticut city limits to house the Contractor's staff during the life of the Agreement for performance of the DDI Phase and Operations Phase functions including, but not limited to:
 - i. contract administration/State liaison (key personnel);
 - ii. claims receipt, pre-screening, and putting claims and other documents into electronic format;
 - iii. exception claims processing (suspense resolution)
 - iv. business operations (check requests to the Department; Division of Fiscal Analysis, accounts receivable handling, cash activity, check/remittance advice mailing);
 - v. ConnPACE application processing and participant relations;
 - vi. production of newsletters, manuals, and so forth;
 - vii. provider relations and provider enrollment; and
 - viii. report printing on laser printers with recyclable 8.5 x 11 paper.
- b. The location of the Contractor's Connecticut office and computer installation(s) for all MMIS functions and tasks shall be approved by the Department. The Contractor may not change the location(s) of its facility(s) except for good cause and with the prior written consent of the Department Contract Administrator, which consent shall not be unreasonably withheld. The Department and the Contractor agree that the Web server and the EDI translator server do not have to be maintained within a ten (10) mile radius of the Hartford, Connecticut city limits so long as the Department has local access to the Web screens.
- c. The Contractor shall maintain, and make available, office space for ten (10) Department personnel for the entire duration of the DDI Phase, and two (2) Department personnel for the remaining term of the Agreement. This space must be contiguous to the Contractor's project staff during the respective phases.

1.9 Execution of Contract

The Department's execution of this contract does not constitute the Department's approval of any requirement nor does it constitute the Department's approval of proposed methods for meeting RFP specifications.

1.10 Assignment, Mergers and Acquisitions

- a. Contracts in whole or in part are not transferable or assignable without the prior written agreement of the Department's Contract Administrator. This

shall not be construed as limiting the Contractor's rights to subcontract some of the services to be performed hereunder as provided in this contract.

- b. At least ninety (90) days prior to the effective date of any changes in corporate status, including merger, acquisition, transfer of assets, and any changes in fiduciary responsibility, the Contractor shall provide the Department with written notice of such changes.
- c. The Contractor shall comply with requests for documentation deemed necessary by the Department to determine whether the Department will agree to the changes and continue the contract with the resulting entity from the proposed organizational change or terminate the agreement.
- d. The Department shall notify the Contractor of such determination no later than forty-five (45) days from the date the Contractor's compliance with requests for such documentation is received.

1.11 Subcontracting

- a. None of the services to be provided by the Contractor as identified in the Scope of Work (Section C of the RFP) shall be subcontracted or delegated to any other organization, subdivision, association, individual, corporation, partnership or group of individuals or other such entity without the prior written consent of the Department. Any subcontract for the provision of services identified in the Scope of Work (Section C of the RFP) to which the Department has consented in writing and/or any subcontract which requires or anticipates the provision of any services defined under the Contract or in a facility owned or leased by the State, shall be in writing attached to the contract and made a part thereof and shall in no way alter the contract terms and conditions. All subcontracts shall contain the access to the books, document, and records, provided for in Section 1.15 infra. No subcontract or delegation shall relieve or discharge the Contractor from any obligation, provision, or liability hereunder.
- b. The Contractor agrees to make a good faith effort to award a reasonable proportion of subcontracts to small, minority, and women's businesses in accordance with Conn. Gen. Stat. Section 4a-60.

1.12 Liaison

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, which arise during the DDI and Operations Phases of the contract.

1.13 Reporting

The Contractor shall provide status reports on a weekly basis in a form and manner to be determined by the Department. In addition, upon contract completion or termination, the Contractor may be asked to submit monthly reporting that summarizes and evaluates the activities of the entire project to date.

1.14 Maintenance of Separate Accounting System

The Contractor shall maintain accounting records in a manner, which will enable the Department to easily audit and examine any books, documents, papers, and records maintained in support of the contract. All such documents shall be made available to the Department at its request, and shall be clearly identifiable as pertaining to the contract.

1.15 Examination of Records

- a. The Department and its duly authorized representatives, the Auditors of Public Accounts and/or the U.S. Department of Health and Human Services and their duly authorized representatives, during the term of this contract and for a period of three (3) years after final payment for the services performed under this contract or any extension and all pending matters are closed shall have access to and the right to examine any of the Contractor's books, records, including but not limited to financial records, documents and papers pertinent to the solicitation that is the basis for this contract and this contract for the purpose of making audit, examination, excerpts and transcriptions. This provision also applies to the books, records, including but not limited to financial records, documents and papers pertinent to this solicitation and this contract of any parent, affiliated or subsidiary organization of Contractor or any subcontractor approved by the Department pursuant to this contract performing under formal or informal arrangement any service or furnishing any supplies or equipment to the contract involving transactions related to this contract. Any contract with an approved subcontract must contain a provision specifically authorizing access in accordance with the terms set forth in this paragraph.
- b. If an audit, litigation, or other action involving the records is started before the end of the three year period, the records must be retained until all issues arising out of the action are resolved or until the end of the three year period, whichever is later. The Contractor further agrees that this provision shall be inserted in each subcontract.

I.16 Proposal Preparation Expense

The State of Connecticut assumes no liability for payment of expenses incurred by the Contractor in preparing and submitting proposals in response to the procurement that is the basis for this Agreement.

1.17 Insurance

The Contractor shall carry insurance, (liability, fidelity bonding, or surety bonding and/or other), as specified in this contract, during the term of the contract according to the nature of the work to be performed to save harmless the State of Connecticut from any claims, suits or demands that may be asserted against it by reason of any act or omission of the Contractor, subcontractor or employees in providing services hereunder, including but not limited to any claims or demands of malpractice. Certificates of such insurance shall at the request of the Department be filed with the Contract Administrator prior to the performance of services.

1.18 Limitation of Liability and Exclusion of Indirect, Consequential, Special and Punitive Damages

The Contractor and the State agree that the State's remedies, and the Contractor's liability to the State for breach of contract, including breach of warranty, for any tort (including negligence and strict liability), and for any other claim arising in connection with the work and services delivered under this contract shall be limited to general money damages in an amount equal to the lesser of (i) actual damages, or (ii) the total contract value excluding extensions or options and expenses, less any monies being retained by the State. In any event, the State shall be permitted to retain all deliverables received and paid for under this contract. Neither party shall be liable for any incidental or consequential damages arising or resulting from any breach of this Agreement.

1.19 Suspension or Disbarment

- a. By the execution of this Agreement the Contractor certifies the Contractor or any person (including subcontractors) involved in the administration of Federal or State funds:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any governmental department or agency (Local, State or Federal);
 - ii. Has not within a three year period preceding the proposal submission been convicted or had a civil judgment rendered against him/her for commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a

public (Local, State or Federal) transaction or contract under a public transaction; 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. Is not presently indicted for or otherwise criminally or civil charged by a governmental entity with the commission of any of the above offenses; and
- b. Has not within a three-year period preceding the proposal submission had one or more public transactions terminated for cause or fault.
- c. The Contractor agrees that any change in the above status shall be immediately reported to the Department.

1.20 Procurement and Contractual Agreements

The Department is solely responsible for rendering decisions in matters of interpretation on all terms and conditions contained herein, subject only to whatever rights, if any, the Contractor may have under state law.

1.21 Offer of Gratuities

By the execution of this Contract the Contractor certifies that no elected or appointed official or employee of the State of Connecticut has or will benefit financially or materially from the award of this contract. This contract may be terminated by the Department if it is determined that gratuities of any kind were either offered to or received by any of the aforementioned officials or employees from the Contractor, its agent(s) or employee(s).

1.22 Award of Related Contracts

The Department may undertake or award supplemental contracts for work related to this contract or any portion thereof. The contractor shall be bound to cooperate fully with such other contractors and the Department in all such cases. All subcontractors will be required to abide by this provision as a condition of the contract between the subcontractor and prime contractor.

1.23 Anti-Lobbying Clause

- a. The contractor agrees that no federal appropriated funds have been paid or will be paid, by or on behalf of the contractor or its subcontractors, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with the

awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

- b. The contractor or its subcontractors shall complete and submit a Standard Form-LLL, Disclosure of Lobbying Activities, in accordance with its instructions if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this federal contract, grant, loan or cooperative agreement.

1.24 Independent Price Determination

By the execution of this Contract the Contractor certifies, as to its own organization, and in connection with this contract that the costs proposed in the Contractor's Cost Proposal were arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such process with any other organization or with any competitor.

1.25 Force Majeure

Neither party shall incur liability for any failure to perform its obligations under this contract due to causes beyond its control including, but not limited to, fire, storm, flood, earthquake, explosion, accident, acts of war, acts of God, acts of federal, state or local government or any agency thereof and judicial action, acts of third parties, and computer or equipment failures other than those caused by the sole negligence of either party.

SECTION II OWNERSHIP

2.1 General

- a. All products and materials developed as a result of this contract by the Contractor, or any of its subcontractors hired for the purposes of this contract shall remain the property of the Department. Products and materials are defined as, but not limited to, copyrighted materials; camera ready copy; mechanical devices; videos; brochures; posters and stock thereof; designs; data; and all other matter and information that is collected or developed for the purpose of this contract.
- b. Disposition of all products and materials shall remain at the discretion of the Department during the effective period of this contract and thereafter.

2.2 Ownership of the System

- a. The Contractor agrees that the State of Connecticut and the United States Department of Health and Human Services (DHHS) shall have a non-exclusive, royalty-free, and irrevocable license to reproduce or otherwise use and authorize others to use the software, procedures, files, and other documentation constituting the Connecticut MMIS designed, delivered, implemented, operated and maintained by the Contractor in accordance with the terms herein, at any time during the period of the contract and thereafter. The Contractor agrees to deliver such material to the Department within thirty (30) calendar days from receipt of the request by the Department. Such requests may be made by the Department at any time prior to the expiration of the contract.
- b. The license shall include, but is not limited to:
 - i. all Connecticut MMIS and supporting programs in their most current version;
 - ii. all job control language (JCL) or other system instructions for operating the Connecticut MMIS, in their most current version;
 - iii. all data files in their most current version;
 - iv. user and operational manuals and other documentation in their most current version;
 - v. system and program documentation describing the most current version of the Connecticut MMIS, including the most current versions of source and object code;
 - vi. training programs for the Department staff and other designated State employees for the operation and use of the system;
 - vii. any and all performance-enhancing operational plans and products;
 - viii. training programs for providers and other billing agents for claims submission both paper and all EDI options (e.g. Internet/web, POS, PC, software etc.); and
 - ix. all specialized or specially modified operating system software and specially developed programs, including utilities, software, electronic claims submission packages, and documentation, which are required for, or used in the operation of, the Connecticut MMIS but which may not be considered as being developed or modified under this contract.
- c. Proprietary software used within a functional area of the Connecticut MMIS may be exempt from this ownership clause. Exemptions would be granted if the proprietary product is defined as such and with sufficient specificity in the Contractor's proposal that the Department can determine whether to fully accept it as the desired solution. The Contractor shall be required to provide sufficient information regarding the objectives and

specifications of any proprietary software to allow its functions to be duplicated by other commercial or public domain products.

- d. Any other specialized software that is not covered under a public domain license that will be integrated into the Connecticut MMIS shall be identified as to its commercial source.
- e. Proprietary software solutions will not be allowed as part of the ongoing development of MMIS features, and all system modifications made after start of operations will be funded jointly by State and Federal financial participation.
- f. The Contractor shall transfer to the State ownership rights in the Connecticut MMIS, whether developed or obtained by the Contractor in the course of performance under the contract or before it. This obligation to transfer ownership rights on the part of the Contractor is subject to the limitations described above.
- g. The exception to the requirement of ownership rights is for the use of commercial software that requires that such software be available to the Department on the open market and not have been modified in any manner. It is the responsibility of the Contractor to demonstrate that the software is available through other sources.
- h. Title to the Connecticut MMIS shall be transferred to the Department, including portions (for example, documentation) as they are created during the DDI Phase and subsequently as modifications for future changes to the MMIS are approved and installed.
- i. The Contractor shall convey to the Department, upon request and without limitation, copies of all system documentation, operating instructions, and procedures and all data processing programs, or portions thereof, which are part of the planned Connecticut MMIS, whether they are developed by the employees of the Contractor or any subcontractor as part of this contract or transferred from another MMIS or contract.

2.3 Credit and Rights in Data

- a. All documents, reports and other data prepared during and/or resulting from the performance of services under this contract shall include the following statement: The preparation of this [report or document, etc.] was financed under an agreement with the Connecticut Department of Social Services.
- b. The Contractor may not publish or copyright any data without prior approval, unless otherwise stated herein. The Department and the Federal

Government shall have the right to publish, duplicate, use, and disclose all such data in any manner, and for any purpose whatsoever, and may authorize others to do so.

- c. 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, surveys, plans, charts, recordings (video and/or sound), pictures, 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.

2.4 Ownership of Information

The State shall own and retain unlimited rights to use, disclose, or duplicate all information and data (copyrighted or otherwise) developed, derived, documented, stored, or furnished by the Contractor under this contract.

2.5 Inspection of Work Performed

The Department or its authorized representative shall at all reasonable times have the right to enter into Contractor's premises, or such other places where duties under the contract are being performed, to inspect, monitor or otherwise evaluate the work being performed. The Contractor and all subcontractors must provide all reasonable facilities and assistance for Department representatives. All inspections and evaluations shall be performed in such a manner as will not unduly delay work.

2.6 Confidentiality

All material and information provided to the Contractor by the State or acquired by the Contractor in performance of the contract whether verbal, written, recorded magnetic media, cards or otherwise shall be regarded as confidential information and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with Federal and State statutes and regulations. The Contractor agrees that it is prohibited from releasing any and all information provided by the Department or providers or any information generated by the Contractor without the prior express written consent of the Contract Administrator.

2.7 Right to Publish

- a. All materials developed during the term of this contract are considered proprietary to the Department and shall remain confidential.
- b. Throughout the term of the contract, the Contractor must secure the Department's written approval prior to the release of any information whatsoever that pertains to work or activities covered by the contract.

2.8 Freedom of Information

Due regard will be given for the protection of proprietary information contained in the Contractor's Proposal; however the Contractor should be aware that all materials associated with this Contract and the MMIS RFP in the possession of the Department are subject to the terms of the Freedom of Information Act, the Privacy Act and all rules, regulations and interpretations resulting there from. It will not be sufficient for the Contractor to merely state generally that the proposal is proprietary in nature and not therefore subject to release to third parties. Those particular pages or sections that the Contractor believes to be proprietary must be specifically identified as such. Convincing explanation and rationale sufficient to justify each exemption from release consistent with section 1-201 of the Connecticut General Statutes must accompany the proposal. The rationale and explanation must be stated in terms of the prospective harm and the competitive position of the Contractor that would result if the identified material were to be released and the reasons why the materials are legally exempted from release pursuant to the above cited statute. Between the Contractor and the Department, the final administrative authority to release or exempt any or all material so identified rests with the Department.

2.9 Performance of Governmental Functions

Pursuant to Section 1-218 of the State of Connecticut General Statutes, each contract in excess of two million five hundred thousand dollars between a public agency and a person for the performance of a governmental function requires the inclusion of language indicating that the records and files associated with the performance of the governmental function are subject to the Freedom of Information Act and may be disclosed by the public agency pursuant to the Freedom of Information Act.

Section 1-200(11) of the State of Connecticut General Statutes defines "Governmental Function" as the administration or management of a program of a public agency, which program has been authorized by law to be administered or managed by a person, where (A) the person receives funding from the public agency for administering or managing the program, (B) the public agency is involved in or regulates to a significant extent such person's administration or management of the program, whether or not such involvement or regulation is direct, pervasive, continuous or day-to-day, and (C) the person participates in the formulation of governmental policies or decisions in connection with the administration or management of the program and such policies or decisions bind the agency. . The Department and the Contractor agree that the Contractor does not make governmental policy decisions that are binding on the Department. Therefore the Contractor's performance under the terms of this Contract do not equate to the performance of a governmental function.

2.10 Use and Delivery of Files

Upon the written request of the MMIS Project Manager during the DDI Phase or Operation Phase, the Contractor shall deliver to the Department copies of any data or program file(s) in the MMIS. Each request shall identify the files and the version, sequence, media and number of copies desired. The Contractor shall fulfill each request within three (3) business days of its receipt. The Contractor shall receive no additional compensation for production and delivery of such files.

2.11 Backup Procedures

The Contractor shall keep in a separate and safe place additional copies of all MMIS records and Department data required to be maintained or additional tapes, disks or electronic media necessary to reproduce all such records and Department data. The Contractor shall use reasonable care (minimally meeting applicable IRS and HIPAA standards) to minimize the likelihood of all damage, loss of data, delays, and errors resulting from an uncontrollable event, and should such damage, loss of data, delays, and errors occur the Contractor shall use its best efforts to mitigate the effects of such occurrence. At the MMIS Project Manager's request, the Contractor shall deliver to the Department a monthly backup tape of all the Department's data at the Contractor's expense. In the event of loss of data by the Contractor, the Contractor shall regenerate the lost data at the Contractor's expense.

SECTION III LIABILITIES AND INDEMNIFICATION

3.1 Hold Harmless

The Contractor agrees to indemnify, defend and hold harmless the State of Connecticut; and all Departments, officers, agents and employees of the State from and against any and all claims, losses or suits according or resulting to any Contractors, subcontractors, laborers and any person, firm or corporation who may be directly or indirectly injured or damaged by the Contractor in the performance of the contract.

3.2 Workers Compensation

The Department may request, in writing, a copy of the Contractor's workers compensation insurance policy. If such a request is made, Contractor must file a copy of its workers compensation insurance policy with the Department's Contract Administrator, no later than fifteen (15) business days following receipt of the written request.

3.3 Patent Infringement

The Contractor at his own expense must defend any and all claims or suits that may be brought against the Department or the State for the infringement of any patents, copyrights, proprietary rights or right of privacy arising from the Contractor's or State's use of any equipment, materials or information prepared or developed in conjunction with the performance of the contract. The Contractor shall, in any such suit, satisfy any

and all damages directly or indirectly assessed against the State or its departments, be it resolved by settlement, final judgment, consent decree, or any other manner.

3.4 Audit Requirements and Liabilities

- a. 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. In addition to and not in any way in limitation of the obligation of the contract, it is understood and agreed by the Contractor that the Contractor shall be held liable for any State or Federal audit exceptions and shall return to the Department all payments made under the contract to which exception has been taken or which have been disallowed because of such an exception in accordance with Connecticut General Statutes 7-396a.

3.5 Reports to the Auditors of Public Accounts

This contract is subject to the provisions of §4-61dd Connecticut General Statutes. In accordance with this section any person having knowledge of any matter involving corruption, violation of state or federal laws or regulations, gross waste of funds, abuse of authority or danger to the public safety occurring in any large state contract, may transmit all facts and information in his possession concerning such matter to the Auditors of Public Accounts. In accordance with subsection (e) if an officer, employee or appointing authority of a large state 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 the Auditors of Public Accounts or the Attorney General under the provisions of this section, the contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty percent of the value of the 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 executive head of the state or quasi-public agency may request the Attorney General to 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) each large state contractor shall post a notice of the provisions of this section relating to large state contractors in a conspicuous place which is readily available for viewing by the employees of the contractor.

3.6 Litigation

- a. The Contractor agrees to provide written notice to the Department of any litigation that relates to the services directly or indirectly financed under

the Contract or that has the potential to impair the ability of the Contractor to fulfill the terms and conditions of the contract, including, but not limited to financial, legal or any other situation that may prevent the Contractor from meeting its obligations under the contract.

- b. The Contractor shall provide written notice to the Department 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, executive orders Nos. 3 & 17 of Governor Thomas J. Meskill and any other provisions of Federal or State law concerning equal employment opportunities or nondiscriminatory practices.

SECTION IV INTERPRETATIONS AND DISPUTES

4.1 Settlement of Disputes

Any dispute concerning a question of fact arising under the contract which is not disposed of by agreement shall be decided by the Contract Administrator whose decision shall be final and conclusive subject only to whatever rights, if any, the Contractor may have in a court of law. In connection with any appeal to the Contract Administrator under this paragraph, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute, the Contractor shall proceed diligently with the performance of the contract in accordance with the contract Administrator's decision.

4.2 Legal Considerations

The Contractor agrees that the sole and exclusive means for the presentation of any claim against the State arising out of this contract, shall be in accordance with Chapter 53 of the Connecticut General Statutes (Claims Against the State) and the Contractor further agrees not to initiate legal proceedings in any State or Federal Court in addition, to, or in lieu of, said Chapter 53 proceedings.

4.3 Choice of Law and Choice of Forum

The Contractor agrees to be bound by the laws of the State of Connecticut and that this contract shall be constructed and interpreted in accordance with Connecticut law in the event a choice of law situation arises.

4.4 Severability

If any provision of this contract is declared or found to be illegal, unenforceable, or void, then both parties shall be relieved of all obligations under that provision. The remainder of this contract shall be enforced to the fullest extent permitted by law.

4.5 Waivers

No covenant, condition, duty, obligation or undertaking contained in or made a part of this contract shall be waived, except as specifically provided in any section of this contract or by the written agreement of the parties. Forbearance or indulgence in any form or manner by the Department in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the Contractor. Notwithstanding any such forbearance or indulgence, until complete performance or satisfaction of all such covenant, conditions, duties, obligations and undertakings, the Department shall have the right to invoke any remedy available under the contract, or under law or equity.

SECTION V PERSONNEL

5.1 Independent Capacity of Contractor

The Contractor including its officers, employees, subcontractors, or any other agent of the Contractor is acting as an independent Contractor in performance of this contract. The Contractor does not have, nor shall Contractor hold themselves out as having, any right, power or authority to create any contract or obligation either express or implied, on behalf, in the name of, or binding upon the State of Connecticut or of the Department. The Contractor shall be solely responsible and liable for Contractor's employees and their acts.

5.2 Employment of State Personnel

The Contractor shall not knowingly engage on a full-time, part-time, or other basis, during the period of the contract, any professional or technical personnel who are, or have been at any time during the period of this contract, Connecticut State employees without prior written approval from the Department's Commissioner and the State Ethics Commission. Recently retired (within one year) employees of Department shall not knowingly be engaged for performance of this contract on a full-time, part-time, or other basis, without prior written approval from the Department's Commissioner and the State Ethics Commission.

5.3 Key Persons

- a. By the execution of this Contract the Contractor certifies that all personnel named in their scope of work in their proposal (Volume III Section L)

shall actually work on the contract in the manner described in their proposal.

b. Key personnel title for the DDI Phase are:

- i. Project Manager/Account Manager;
- ii. Deputy Project/Account Manager;
- iii. Systems Manager;
- iv. Implementation Task Manager;
- v. Provider Relations Manager;
- vi. Quality Assurance/Workplan Manager;
- vii. Conversion Task Manager;
- viii. Implementation/Claims Processing Manager;
- ix. Pharmacy Program Manager;
- x. ConnPACE Manager; and
- xi. Functional Area Leads.

c. Key personnel for the Operations Phase are:

- i. Project Manager/Account Manager;
- ii. Deputy Project/Account Manager;
- iii. Systems Manager;
- iv. Operations/Claims Processing Manager;
- v. Provider Relations Manager;
- vi. Quality Assurance Manager;
- vii. Operations/Claims Processing Manager;
- viii. Pharmacy Program Manager;
- ix. ConnPACE Manager;
- x. RetroDUR Coordinator;
- xi. Drug Rebate Coordinator; and
- xii. Pharmacy PA/PDL Coordinator.

d. No changes, substitution, additions, or deletions shall be made unless approved in advance by the MMIS Project Director. In addition, these individuals shall continue for the duration of the contract, except in the event of resignation or death. In such event, the MMIS Project Director will approve the substitute personnel. Substitutions shall be made within thirty (30) days of the resignation, incapacity or death of a key person.

e. During the course of the contract, the Department reserves the right to approve or disapprove the Contractor's and any subcontractor's staff assigned to this contract, to approve or disapprove any proposed changes in staff, or to require the removal or reassignment of any Contractor employee or subcontractor employee found unacceptable by the Department.

- f. Any employee of the Contractor, who, in the opinion of the Department is unacceptable, shall be removed from this contract. In the event that an employee is removed pursuant to the Department's written request from the MMIS Project Director, the Contractor shall have thirty (30) days in which to fill the vacancy with an acceptable employee. Replacement of any personnel, including those who have terminated employment, shall be with personnel of equal ability and qualifications as approved by the Department. The Contractor shall, upon request, provide the Department with a resume for any member of its staff or of a subcontractor's staff assigned to or proposed to be assigned to any aspect of the performance of this contract.

5.4 Non-Discrimination Regarding Sexual Orientation

- a. Unless otherwise provided by Conn. Gen. Stat. § 46a-81p, the Contractor agrees to the following provisions required pursuant to § 4a-60a of the Conn. Gen. Stat.:
 - 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 sexual orientation, in any manner prohibited by the laws of the United States or of the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation;
 - ii. the Contractor agrees to provide each labor union or representatives 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;
 - iii. the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to § 46a-56 of the Conn. Gen. Stat.;
 - iv. 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 provisions of this section and § 46a-56 of the Conn. Gen. Stat.

- b. The Contractor shall include the provisions of subsection (a) 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 § 46a-56 of the Conn. Gen. Stat. 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.

5.5 Executive Order No. 3

- a. This contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971, and, as such, this contract may be canceled, terminated or suspended by the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Three, or any State or Federal law concerning nondiscrimination, notwithstanding that the Labor Commissioner is not a party to this contract.
- b. The parties to this contract, as part of the consideration hereof, agree that said Executive Order No. Three is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to contract performance in regard to nondiscrimination, until the contract is completed or terminated prior to completion. The Contractor agrees, as part consideration hereof, that this contract is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. Three, and that the Contractor will not discriminate in employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner.

5.6 Executive Order No. 16: Violence in the Workplace Prevention Policy

- a. This contract is also subject to provisions of Executive Order No. Sixteen of Governor John J. Rowland promulgated August 4, 1999, and, as such, this contract may be cancelled, terminated, or suspended by the contracting agency or the State for violation of or noncompliance with said Executive Order No. Sixteen.

- b. The parties to this contract, as part of the consideration hereof, agree that the Contractor shall prohibit employees from bringing into the State work site, except as may be required as a condition of employment, any weapon, or dangerous instrument as defined in this section.
 - i. Weapon means any firearm, including a BB gun, whether loaded or unloaded, any knife (excluding a small pen or pocket knife), including a switchblade or other knife having an automatic spring release device, a stiletto, any police baton or nightstick or any martial arts weapon or electronic defense weapon.
 - ii. Dangerous instrument means any instrument, article, or substance that, under the circumstances, is capable of causing death or serious physical injury.
- c. The Contractor shall prohibit employees from attempting to use, or threaten to use, any such weapon or dangerous instrument in the State work site and employees shall be prohibited from causing, or threatening to cause, physical injury or death to any individual in the State work site.
- d. The Contractor shall adopt the above prohibitions as work rules, violation of which shall subject the employee to disciplinary action up to and including discharge. The Contractor shall require that all employees are aware of such work rules.
- e. The Contractor agrees that any subcontract it enters into in the furtherance of the work to be performed hereunder shall contain the provisions a through e, above.

5.7 Executive Order No. 17: Connecticut State Employment Service Listings:

- a. This contract is also subject to provisions of Executive Order No. Seventeen of Governor Thomas J. Meskill promulgated February 15, 1973, and, as such, this contract may be canceled, terminated, or suspended by the contracting agency or the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Seventeen, notwithstanding that the Labor Commissioner may not be a party to this contract.
- b. The parties to this contract, as part of the consideration hereof, agree that Executive Order No. Seventeen is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the contracting agency and the State Labor Commissioner shall have joint and several continuing jurisdiction in respect to contract performance in regard to listing all employment openings with the Connecticut State Employment Service.

5.8 Nondiscrimination and Affirmative Action Provisions

- a. 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, mental retardation 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. 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, mental retardation, 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;
- b. the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission;
- c. 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 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;
- d. the Contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f;
- e. the Contractor agrees to provide the commission of 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 section 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 project.

- f. For the purposes of this section, "minority business enterprise" means any small Contractor or supplier of materials fifty-one per cent or more of capital stock, if any, or assets of which is owned by a person or persons:
 - i. who are active in the daily affairs of the enterprise;
 - ii. who have the power to direct the management and policies of the enterprise; and
 - iii. who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and "good faith" means that degree of diligence that a reasonable person would exercise in the performance of legal duties and obligations. "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.
- g. Determinations 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 action 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.
- h. The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.
- i. The Contractor shall include the provisions of subsection (a) 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 provision 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 section 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.

5.9 Americans with Disabilities Act of 1990

- a. This clause applies to those Contractors which are or will come to be responsible for compliance with the terms of the Americans with

Disabilities Act of 1990 (42 USCS §§ 12101-12189 and §§ 12201-12213) (Supp. 1993); 47 USCS §§ 225, 611 (Supp. 1993). During the term of the contract, 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 will 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 Act.

- b. Where applicable, the Contractor agrees to abide by the provisions of section 504 of the federal Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 (Supp. 1993), regarding access to programs and facilities by people with disabilities.

5.10 Utilization of Minority Business Enterprises

It is the policy of the State that minority business enterprises should have the maximum opportunity to participate in the performance of government contracts. The Contractor agrees to use best efforts consistent with 45 CFR. 74.160 et seq. (1992) and paragraph 9 of Appendix G thereto for the administration of programs or activities using HHS funds; and §§ 13a-95a, 4a-60, to 4a-62, 4b-95(b), and 32-9e of the Conn. Gen. Stat. to carry out this policy in the award of any subcontracts.

5.11 Nonsegregated Facilities

- a. The Contractor shall comply with Federal Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity" as amended by Federal Executive Order 11375 and as supplemented in the United States Department of Labor Regulations (41 CFR Part 60-1 et seq., Obligations of Contractors and Subcontractors).
- b. Pursuant to the above-cited regulations, the Contractor shall not maintain any facilities it provides for its employees in a segregated manner, or permit its employees to perform their services at any location, under its control, where segregated facilities are maintained; and so certifies by its agreement to this contract.
- c. As used in this certification, the term "facilities" means waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated on the basis of race, color, religion, or national origin. The Contractor further agrees (except where he has obtained identical certifications from proposed subcontractors for specific time periods) that it will obtain identical certifications from proposed subcontractors who are not exempt from the provisions for Equal Employment Opportunity; that it will retain

such certifications in its files; and that it will forward a copy of this clause to such certifications in its files; and that it will forward a copy of this clause to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods).

5.12 Employment/Affirmative Action Clause

The Contractor agrees to supply employment/affirmative action information as required for agency compliance with Titles VI and VII of the Civil Rights Acts of 1964 and Connecticut General Statutes, Section 46a-68 and Section 46a-71.

5.13 Priority Hiring

The Contractor agrees, subject to its exclusive right to determine the qualifications for all employment positions, it shall use commercially reasonable efforts to ensure that it gives priority to hiring welfare clients who are subject to time-limited welfare and must find employment. The Contractor and the Department shall cooperatively determine the number and types of positions to which this paragraph shall apply. The Department shall counsel and screen an adequate number of appropriate candidates for positions targeted by the Contractor as suitable for individuals receiving benefits under the time-limited welfare program.

SECTION VI TERMINATION

6.1 General

- a. This Contract may be terminated by the Department upon fifteen (15) days advance written notice delivered to the Contractor specifying a date of termination.
- b. The State may terminate this Contract for the following termination provisions:
 - i. For Default
 - ii. For Convenience
 - iii. For Unavailability of Funds
 - iv. For Financial Instability
- c. All notices of termination shall be signed by the Contract Administrator.

6.2 Termination for Default

- a. The State may terminate this contract in whole, or in part, whenever the Department determines that the Contractor or any subcontractor has failed to satisfactorily perform its contracted duties and responsibilities and is

unable to cure such failure, within a reasonable period of time as specified in writing by the Contract Administrator, taking into consideration the gravity and nature of the default. Such determination shall be referred to herein as "Termination for Default."

- b. Upon determination by the Department that the Contractor has failed to satisfactorily perform its contracted duties and responsibilities, the Contract Administrator shall notify the Contractor of its failure to perform and shall establish a reasonable time period, not to exceed thirty (30) days, in which to cure such failure. If the Contractor is unable to cure the failure within the specified time period, the Contract Administrator will notify the Contractor that the contract has been terminated for default, in whole or in part. Such notices shall be in writing and delivered to the Contractor by certified mail, return receipt requested.
- c. If, after notice of termination for default, it is determined by the Department or a court that the Contractor was not in default or that the Contractor's failure to perform or make progress in performance was due to causes beyond the control and without error or negligence of the Contractor or any of its subcontractors, the notice of termination shall be deemed to have been issued as a termination for the convenience of the Department, and the rights and obligations of the parties shall be governed accordingly.
- d. In the event of a termination for default, the Contractor shall be paid for those services the Contractor has provided to the Department pursuant to this contract.
- e. The rights and remedies of the Department provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law under the contract.

6.3 Termination for Convenience

- a. The Department may terminate performance of work under the contract in whole or in part whenever for any reason the Department shall determine that such termination is in the best interest of the Department and/or the State of Connecticut.
- b. In the event that the Department elects to terminate the contract pursuant to this provision, the Contract Administrator shall notify the Contractor by certified mail, return receipt requested. Termination shall be effective as of the close of business on the date specified in the notice.

6.4 Termination for Unavailability of Funds

It is understood and agreed by the parties hereto that all obligations of the Department, including the continuance of payments hereunder, are contingent upon the availability and continued appropriation of State and/or Federal funds, and in no event shall the Department be liable for any payments hereunder in excess of such available appropriated funds. In the event that the amount of any available or appropriated funds provided by the State and/or Federal sources for the purchase of services hereunder shall be reduced, terminated or shall not be continued at an aggregate level sufficient to allow for the purchase of the specified amount of services to be purchased hereunder for any reason whatsoever, the Department shall notify the resultant Contractor of such reduction of funds available and the Department shall be entitled to reduce its commitment hereunder as it deems necessary.

6.5 Termination for Financial Instability

In the event that the Contractor becomes financially unstable to the point of threatening the ability of the Department to obtain the services provided for 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, the Department may, at its option, immediately terminate this contract. In the event the Department elects to terminate this contract under this provision, it shall do so by the Contract Administrator sending notice of termination to the Contractor by certified mail, return receipt requested, specifying the date of termination. In the event of the filing of a petition in bankruptcy by or against a principal subcontractor, the Contractor shall immediately so advise the Department. The Contractor shall ensure that all tasks related to the subcontract are performed in accordance with the terms of the contract and agrees that the filing of a petition in bankruptcy by or against a subcontractor shall, in no way, relieve Contractor of its duties under this contract.

6.6 Procedure for Termination

- a. Upon delivery by certified mail to the Contractor of a Notice of Termination specifying the nature of the termination and the date upon which such termination becomes effective, the Contractor shall:
 - i. Stop work under the contract on the date and to the extent specified in the Notice of Termination.
 - ii. Terminate all subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.
 - iii. Assign to the Department in the manner and to the extent directed by the Contract Administrator all of the right, title, and interest of the Contractor under the subcontracts so terminated, in which case the Department shall have the right, in its discretion, to settle or pay any and all claims arising out of the termination of such subcontracts.

- iv. Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination.

6.7 Transition after Termination or Expiration of Contract

In the event that this contract is terminated for any reason the Contractor will assist in the orderly turnover of operations described in Section C.9 of the RFP as required by the Department and will assist in the orderly cessation of operations under this contract. The contract may be amended as necessary to assure transition requirements are met during the term of this contract.

SECTION VII HIPAA PROVISIONS

7.1 General

- a. If the Contractor is a Business Associate under HIPAA, 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 the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), more specifically with the Privacy Rule at 45 C.F.R. Part 160 and Part 164, subparts A and E; and
- c. The State of Connecticut Department of Social Services named on page 1 of this Contract (hereinafter Department) is a "covered entity" as that term is defined in 45 C.F.R. § 160.103; and
- d. The Contractor, on behalf of the Department, performs functions that involve the use or disclosure of "individually identifiable health information", as that term is defined in 45 C.F.R. § 160.103; and
- e. The Contractor is a "business associate" of the Department, as that term is defined in 45 C.F.R. § 160.103; and
- f. The Contractor and the Department agree to the following in order to secure compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), more specifically with the Privacy Rule at 45 C.F.R. Part 160 and Part 164, subparts A and E:

7.2 Definitions Pertaining to Section VII

- a. **Business Associate:** "Business Associate" shall mean the Contractor.
- b. **Covered Entity:** "Covered Entity" shall mean the Department of Social Services named on page 1 of this Contract.
- c. **Designated Record Set:** "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.
- d. **Individual:** "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).
- e. **Privacy Rule:** "Privacy Rule:" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and parts 164, subparts A and E.
- f. **Protected Health Information:** "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
- g. **Required by Law:** "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
- h. **Secretary:** "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
- i. **More Stringent:** "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
- j. **Section of Contract:** "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.

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7.3 Obligations and Activities of Business Associate

- a. 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.
- b. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
- c. 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.
- d. Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract of which it becomes aware.
- e. Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
- f. Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, 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.
- g. 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 agreed to by the parties.
- h. 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 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 determining Covered Entity's compliance with the Privacy Rule.

- i. 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.
- j. Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with paragraph I 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.
- k. Business Associate agrees to comply with any State law that is more stringent than the Privacy Rule.

7.4 Permitted Uses and Disclosures by Business Associate

- a. 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 Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
- b. Specific Use and Disclosure Provisions: 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.
- c. 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.
- d. 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).

7.5 Obligations of Covered Entity

- a. 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.

- b. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- c. 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.

7.6 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 Privacy Rule 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.

7.7 Term and Termination

- a. Term: The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when 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.
- b. Termination for Cause: Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - i. 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
 - ii. Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
 - iii. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

- c. Except as provided in paragraph (2) of this subsection C, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision 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.
- d. 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.

7.8 Miscellaneous HIPAA Provisions

- a. 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.
- b. 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.
- c. Survival: The respective rights and obligations of Business Associate under Section VI, Subsection C of this Section of the Contract shall survive the termination of this Contract.
- d. 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.
- e. 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.
- f. 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

pending correction or outright disapproval, the Contractor shall make the corrections and resubmit the corrected Deliverable.

- d. As soon as possible, but in no event later than ten (10) business days following resubmission of any Deliverable unable to be approved pending correction or originally outright disapproved, the MMIS Project Manager shall give written notice to the Contractor of the Department's unconditional approval, inability to approve pending correction, outright disapproval, or inability to respond to the resubmission of the Deliverable until a specified future date.
- e. In the event that the Department's MMIS Project Manager fails to respond to a Deliverable (such as, to give notice of unconditional approval, inability to approve pending correction, outright disapproval, or state the inability to respond until a specific future date as aforesaid), and other mutually agreed upon action cannot be agreed to within the applicable time period, the Contractor may elect the following course of action:
 - f. Notify the Department's MMIS Project Manager in writing that it intends to proceed with subsequent work unless the response is received by a date to be specified in such notice. The date specified may not be earlier than five (5) business days following the date of receipt of the notice. If the response is not delivered by the specified date, the Deliverable shall be deemed to have been unconditionally approved on that day and the Contractor shall not be entitled to any equitable adjustment in time or price on account of any delay.
 - g. By submitting a Deliverable, the Contractor represents that, to the best of its knowledge, it has performed the associated tasks in a manner that shall, in concert with other tasks, meet the objectives stated or referred to in the Agreement. By unconditionally approving a Deliverable, the Department represents only that it has reviewed the Deliverable and detected no errors or omissions of sufficient gravity to defeat or substantially threaten the attainment of those objectives and to warrant the withholding or denial of payment for the work completed. The Department's approval of a Deliverable does not discharge any of the Contractor's contractual obligations with respect to that Deliverable, or to the quality, comprehensiveness, functionality, effectiveness or certification of the Connecticut MMIS as a whole, or the Contractor's meeting of the requirements of the MMIS RFP.

8.2 Status Reports, Meetings Minutes, and Consultation

- a. Once each week, or at more frequent intervals, if the Department should so require, until the commencement of the Operations Phase, the DDI Phase Project Manager/Account Manager and his or her necessary staff

shall meet with the Connecticut MMIS Project Manager and selected staff to discuss the Contractor's progress and performance under the Agreement.

- b. On a scheduled weekly basis, commencing with the start of the MMIS Design, Development, and Implementation Phase and continuing for the life of the Agreement, the Contractor shall submit a written MMIS status report, in both paper and electronic formats, to the MMIS Project Manager. Each MMIS progress report shall provide a detailed description of the status of the Contractor's progress and performance under the Agreement since the last progress report and shall be signed by the Project Manager/Account Manager or his or her designee.
- c. Prior to the commencement of the MMIS Operations Phase, each written MMIS status report shall describe the tasks and deliverables completed, the tasks and deliverables scheduled for completion but not completed and reasons for such failure to complete, and the progress expected to be made in the next reporting period. All work activities described shall be referenced to the approved work plan.
- d. Subsequent to the commencement of the MMIS Operations Phase, each written MMIS status report shall describe any problems the Contractor has encountered in the performance of any of its responsibilities under the Agreement including but not limited to downtime episodes. Each report shall detail any problems discovered in the application software with emphasis on any system abnormalities or failures caused by the application problems and the corrective action taken and planned to prevent the failures or abnormalities from occurring or recurring. In addition, each report shall include the status of all change orders proposed, in negotiation, in development, in testing, or awaiting Department technical sign-off, the required staffing reports, and proposed production schedules.
- e. At any time during the life of the Agreement, upon written request by the Department, the Contractor shall promptly prepare and provide written special progress reports in response to particular problems in the performance of work under the Agreement identified by the Department. Each report shall include a description of the problem, the reason(s) why the problem occurred, corrective action plan(s) proposed to prevent the problem(s) from reoccurring and an implementation date for the corrective action plan(s) and shall be signed by the Project Manager/Account Manager.
- f. At any time during the life of the Agreement, upon written request by the Department, the Contractor will participate in formal progress review meetings with the MMIS Project Manager and, other Department officials

and employees and, at the option of the Department, representatives of Federal or other State agencies.

- g. At any time during the life of the Agreement, upon Contractor discovery of any problem which may jeopardize the successful or timely completion of its obligations, the Contractor shall notify the Department's MMIS Project Manager orally, no later than the close of business of that day if the problem is discovered before 4:30 pm or no later than 10:00 am of the succeeding State of Connecticut business day if the problem is discovered after 4:30 pm or on a State of Connecticut non-business day. The Contractor shall follow the oral notification no later than three (3) business days later with a written analysis of the problems to the MMIS Project Manager including in such notice the Contractor's recommendation for expeditious resolution of the problem.

8.3 Design, Development and Implementation ("DDI") Phase Milestones

- a. The Department and the Contractor agree that the following are the milestones for the DDI phase and that payments associated with the Contractor's completion of a milestone are set forth in Section 12.1 of this Contract.
 - i. State approval of all Design Task milestones:
 - a. Updated Detailed Work Project Plan;
 - b. Requirements Validation Specification;
 - c. All Functional Area General System Designs; and
 - d. All Functional Area Detail System Designs.
 - ii. State approval of all Development/Testing Task milestones:
 - a. System Test Plan;
 - b. Integration and System Testing Results;
 - c. MMIS User Manuals;
 - d. MMIS Operating Procedures;
 - e. Provider Manuals;
 - f. Contingency Plan;
 - g. Revised Detail System Design;
 - h. Integrated Test Facility; and
 - i. Integrated Test Facility Procedures.
 - iii. State approval of all Conversion Task milestones:
 - a. Conversion Plan;
 - b. Conversion Test Results; and
 - c. All Preliminary Converted Files.
 - iv. State approval of all User Acceptance Testing Task milestones:
 - a. User Acceptance Test Plan;
 - b. All Acceptance Test Resolution Documents;
 - c. Updated MMIS User Manuals;
 - d. Updated MMIS Provider Manuals; and

- e. Operational Readiness Report;
- v. State approval of all Implementation Task milestones:
 - a. MMIS Implementation Plan;
 - b. MMIS System Documentation; and
 - c. Results of Final Data Conversion.
- vi. State-approved Contractor start of full MMIS operations for all claim types and approval of completion of training; and
- vii. CMS Certification of the MMIS.

8.4 Completion of Milestones

- a. The Department and the Contractor agree that the completion of a Milestone shall be indicated by the unconditional written approval of all Deliverables comprising each Milestone by the Department.
- b. Upon the Department's unconditional approval of all Deliverables comprising each Milestone during the MMIS Design, Development, and Implementation Phase, the Contractor shall, at the written request of the MMIS Project Manager, provide a structured walk-through of the entire MMIS, including copies of support documentation and any visual aids normally used for this purpose for such State and Federal personnel as the MMIS Project Manager may select. The Contractor shall conduct each presentation at the time and place convenient to the State and Federal personnel in attendance as specified in the Department's written request.
- c. The Contractor may proceed to perform work on a succeeding Milestone during the MMIS Design, Development, and Implementation Phase prior to the Department's unconditional approval of all Deliverables comprising a preceding Milestone only upon the conditions that all such work performed shall be entirely at its own risk and that the Department shall have no obligation to work in concert with the Contractor or review any Deliverables relating to the succeeding Milestone(s). The Contractor shall be solely responsible for all costs relating to any changes, deletions or additions it may be required to make as a result of its failure to obtain all unconditional approvals for Deliverables comprising a Milestone.

8.5 Policy Determinations

The Department shall make and determine all policy relating to the operation of the Connecticut MMIS. The Contractor may request of the MMIS Project Manager in writing that the Department issue policy determinations or operating guidelines required for proper performance of the Agreement, in which event the MMIS Project Manager will deliver to the Contractor a written reply within ten (10) State of Connecticut business days of his or her receipt of the Contractor's request. The Contractor shall be entitled to rely upon and act in accordance with such policy determinations and operating

guidelines, unless and until they are superseded, suspended or revoked, so long as it does not act negligently, maliciously, fraudulently, or in bad faith.

SECTION IX OPERATIONS PHASE – GENERAL REQUIREMENTS

9.1 Contractor Overall Responsibilities

The Contractor shall be responsible, at a minimum for the following tasks during the operational phase of the MMIS:

- a. accurately and timely processing of all claims;
- b. maintain the system to ensure optimal operation;
- c. comply with all contractor responsibilities as specified in this RFP;
- d. meet or exceed Contractor performance standards and expectations;
- e. process all provider enrollment and reenrollment activities;
- f. update and maintain current and accurate systems documentation;
- g. update and maintain current and accurate provider manuals;
- h. accurately and timely process ConnPACE applications and reenrollments;
- i. manage and adequately staff the Customer Service Call Center;
- j. produce needed reports as defined by the Department; and
- k. meet with designated Department staff as determined by the Department's MMIS Project Director and/or Project Manager.

9.2 Department Overall Responsibilities

The Department shall be responsible, at a minimum for the following tasks during the operational phase of the MMIS:

- a. provide guidance and direction in implementing and adhering to Connecticut Medical Assistance program policies;
- b. provide timely processing of all approvable contractor operations invoices for payment;
- c. meet with designated contractor staff as needed to facilitate efficient and effective MMIS operations; and
- d. comply with all Department responsibilities as specified in the MMIS RFP.

9.3 Claim Edits

- a. The MMIS shall maintain edits to be applied to all claims. The Department shall have the responsibility to establish the disposition of each edit, at any time. "Suspends" are claims which fail the edit process and must be resolved by the Contractor through internal processing, or by referral to the Department, or contractor staff for review and individual consideration.

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- b. No edit overrides may be applied without the prior written direction or consent of the Department, and the Contractor shall create and maintain an audit trail of all edit overrides.

9.4 Returned Provider Checks

- a. Throughout the term of the Agreement, the Contractor may receive returned provider checks drawn on the State's account. For those checks returned due to an incorrect or incomplete mailing address the Contractor shall, within five (5) business days of receipt (or the Department's forwarding) research the correct address, re-mail the check, and notify the Department weekly in writing of all re-mailings.
- b. All non-State provider checks, checks for which a better address cannot be reasonably found, and all other checks sent to the Contractor for any reason, shall be delivered to the Department within two (2) business days from the date of Contractor's receipt of such checks. Whenever possible, the Contractor shall record sufficient identifying information for each returned check to trace it back to the production cycle of its issuance, the reason for return, and the provider(s) making the return.

9.5 Recoupment and Erroneous Payments

- a. During the MMIS Operations Phase, the Department may direct the Contractor to recoup amounts paid to a specific provider. A recoupment shall consist of a negative adjustment to a previous payment(s). The Contractor shall not effect any recoupments except upon the prior written authorization of the MMIS Project Manager or his/her written designee, which authorization shall not be unreasonably withheld.
- b. An erroneous payment is such part or all of any payment made with respect to a claim that should not have been paid according to the then applicable criteria for payment of that claim when applied to the information provided by the Department prior to the processing of that claim. The Contractor shall be liable to the Department for all erroneous payments which result from the wrongful action or failure to act on the part of the Contractor. Upon the Contractor's discovery of an erroneous payment, the Contractor shall notify the Department orally and in writing within twenty-four (24) hours of its discovery. All of the circumstances relating to the cause and the effect of each such error, including the identification of each provider affected, the amount of overpayment or underpayment made to the provider, and the identification of all affected claims, shall be furnished to the Department as quickly as reasonably possible but in any event no later than five (5) business days after discovery.

- c. Upon its receipt of a written direction from the MMIS Project Manager ordering it to undertake a recoupment, the Contractor shall complete all steps necessary to implement the recoupment for all affected claims before the end of the next pay cycle occurring after its receipt of the direction. In the event that the volume of claims affected by the direction or the complexity of the recoupment task is so great as to make it impossible for the Contractor to fulfill the requirements of the preceding sentence, the Contractor shall notify the MMIS Project Manager in writing, within twenty-four (24) hours of its receipt of the direction, of the earliest time frame within which the Contractor can implement the recoupment. After consideration of the circumstances described by the Contractor, the MMIS Project Manager may grant, in writing, whatever extension of time he or she deems necessary to implement the recoupment. The Contractor shall pay to the Department any portion of an erroneous payment, resulting directly or indirectly from the Contractor's wrongful action or failure to act, not recouped within one hundred eighty (180) calendar days of its receipt of the direction initiating its recoupment. The Contractor shall make such payment to the Department within seven (7) calendar days of the expiration of the one hundred eighty (180) calendar day period.
- d. The Department shall not be liable to the Contractor for any repayment amount due which is not recovered by recoupment from providers. The Contractor may initiate independent recovery procedures and actions with the prior written approval of the Department's Contract Administrator once the recoupment process described herein has been completed and a repayment amount remains outstanding. Such approval shall not be unreasonably withheld. The Contractor shall be allowed to continue the recoupment through the system and if the Department recovers any erroneous payments for which the Contractor has reimbursed the Department, the Department shall notify the Contractor who shall then submit a standard State invoice for the returned amount.

Section X DAMAGES – FAILURE TO MEET CONTRACT REQUIREMENTS

10.1 General

It is expressly agreed by the Department and the Contractor that, in the event of a failure to meet the performance requirements listed in this Section X, damage shall be sustained by the State, and the Contractor shall pay to the State its actual damages according to the following subsections. Written notice of said failure to perform shall be provided to the Contractor within thirty (30) calendar days of the State's discovery of such failure.

10.2 System Certification - Performance Requirement

- a. Section 1903(a)(b)(d) of Title XIX provides seventy-five percent (75%) Federal financial participation (FFP) for operation of mechanized claims

payment and information retrieval systems approved by CMS. Up to ninety percent (90%) FFP is available for MMIS-related development costs prior approved by CMS in the State's IAPD and at contract signing. The Connecticut MMIS designed, delivered, implemented, operated and maintained by the Contractor pursuant to the terms of this contract **must**, following the implementation and throughout the remainder of the contract period including any extensions, meet all certification and recertification requirements established by CMS.

- b. The Contractor shall ensure that Federal certification approval for the maximum allowable enhanced FFP for the planned Connecticut MMIS is obtained retroactively to the day the system becomes operational and is maintained throughout the term of the contract. Should decertification of the MMIS, or any component part of it, occur prior to contract termination or the ending date of any subsequent contract extension, the Contractor shall be liable for resulting damages that result from the Contractor's wrongful action or failure to act consistent with its obligation under the Contract.

10.3 System Certification -- Damages

- a. The Contractor shall be liable for the difference between the maximum allowable enhanced Federal financial participation and that actually received by the Department, including any losses due to loss of certification, failure to obtain approval retroactive to day one (1), or delays in readiness to support certification that result from the Contractor's wrongful action or failure to act consistent with its obligation under the contract.
- b. All FFP penalty claims assessed by CMS shall be withheld by the Department from monies payable to the Contractor until all such damages are satisfied. Damage assessments shall not be made by the State until CMS has completed its certification approval process and has notified the State of its decision in writing.

10.4 DHHS Sanctions – Consequential Damages

If during the MMIS Design, Development, and Implementation Phase or the Operations Phase, CMS imposes fiscal sanctions against the State as a result of the Contractor's or any subcontractor's action or inaction, the Contractor shall compensate the Department the amount lost by the State by application of the sanctions.

10.5 Correctness of Payments - Performance Requirement

- a. All payments, adjustments, and other financial transactions made through the MMIS must be made by the Contractor on behalf of eligible clients, to

enrolled providers, for approved services, and in accordance with the payment rules and other policies of the State of Connecticut.

- b. The Contractor shall be liable for the actual amount of any detected overpayments or duplicate payments identified as a result of State or Federal claims reviews or as reported by providers or from other referrals, which are a result of incorrect Contractor staff action or inaccurate system data and processing. Such liabilities will be withheld by the Department from Contractor payments. However, the Contractor may seek recovery, on behalf of the State, from providers to whom erroneous payments are made, utilizing voluntary refund, offset recovery, or other State-approved methods.
- c. The Contractor shall notify the State immediately upon discovery of any overpayments or duplicate payments, irrespective of cause, and prior to initiating appropriate recovery action. The Contractor shall notify the State, using the change request process, of any system errors that result in a potential provider overpayment.

10.6 Correctness of Payments – Damages

If an overpayment or duplicate payment is made to a provider and that payment is the result of a failure of the Contractor to either utilize available information or to process correctly, then the Contractor shall be liable for the overpayment or duplicate payment for which full recovery cannot be made, using all reasonable procedures. The Contractor shall notify the State immediately upon discovery of any overpayments or duplicate payments, irrespective of cause.

10.7 Operational Start Date - Performance Requirement

- a. The Contractor and the Department agree that the Connecticut MMIS must be fully operational on 10/1/2007. Fully operational means to begin processing correctly all claim types, claims adjustments, and other financial transactions; maintaining all system files; producing all required reports; and performing all other Contractor responsibilities as specified in the RFP.
- b. Compliance with the 10/1/2007 date or any later date agreed to by the Department and the Contractor through an amendment to this Contract, is critical to the State's interest. Therefore, the Contractor shall be liable for resulting damages if this date is not met. The Contractor's capability to meet this date shall be determined by the State following the conclusion of the operational readiness test.

10.8 Operational Start Date – Damages

If, for any reason, the Contractor does not fully meet the operational start date approved in the Detailed Project Workplan and a contract amendment delaying this date or start-up of a portion of the processing requirements has not been approved, then the Contractor shall be liable for the additional costs incurred by the State to continue all services that comprise the current MMIS and Contractor operations that are incurred due to the delay (i.e. lost savings anticipated in running the new system) including any lost FFP due to such unexcused Contractor delay. The State shall, however, exercise good faith efforts to avoid or otherwise mitigate the loss of FFP and agrees to allow the Contractor to participate in those efforts with the State and CMS. The Contractor shall also forfeit all claims to reimbursement of monthly expenses or operational payments for that month and each month thereafter until the State approves operational readiness, which approval shall not be unduly withheld.

SECTION XI PERFORMANCE REQUIREMENTS AND LIQUIDATED DAMAGES – FAILURE TO MEET PERFORMANCE REQUIREMENTS

11.1 Liquidated Damages - General

- a. The purpose of liquidated damages is to ensure adherence to the performance requirements in the contract. No punitive intention is inherent. It is agreed by the State and the Contractor that, in the event of a failure to meet the performance requirements listed herein, damage shall be sustained by the State, and that it may be impractical and extremely difficult to ascertain and determine the actual damages which the State will sustain in the event of, and by reason of, such failure; and it is therefore agreed that the Contractor will pay the State for such failures at the sole discretion of the State according to the following subsections.
- b. Damage assessments are linked to the Contractor's performance of system implementation or operational responsibilities specified as a Performance Requirement throughout this Section 11. Where a damage assessment is defined throughout this Section 11 as an "up to" amount, the dollar value will be set at the discretion of the State.
- c. Written notification of each failure to meet a performance requirement will be given to the Contractor by the Department Contract Administrator. The Contractor shall have five (5) business days from the date of receipt of written notification of a failure to perform to specifications to cure the failure. However, additional business days can be approved if deemed necessary by the State. If the failure is not resolved within this warning/cure time period, liquidated damages **may** be imposed retroactively to the date of failure to perform. The imposition of liquidated damages is not in lieu of any other non-monetary remedy available to the State. All damage assessments imposed against the

Contractor by the Department shall be withheld by the Department from monies payable to the Contractor until such damages are satisfied.

- d. If the Department elects to not exercise a damage clause in a particular instance, this decision shall not be construed as a waiver of the State's right to pursue future assessment of that performance requirement and associated damages.

11.2 Systems Documentation – DDI Phase - Performance Requirement

- a. The Contractor shall provide to the Department complete, accurate, and timely documentation of the operational MMIS installed and all enhancements made to it. Such documentation must be according to the specifications approved by the Department. One (1) paper copy and two (2) CD copies (other media as determined by the Department) of such documentation must be provided to the Department in final form within thirty (30) calendar days of the date of start of operations for all MMIS functions approved by the Department. The Contractor will also be responsible for providing those copies required by the U.S. Department of Health and Human Services.
- b. Any changes that occur to the operational system must be documented according to the standards approved by the Department, and documentation of those changes must be provided to the Department within twenty (20) calendar days of the Department's approval of implementation of the change.

11.3 Systems Documentation –DDI Phase - Damages

The Department may assess damages against the Contractor of one hundred dollars (\$100.00) for each State of Connecticut business day, or any part thereof, from the date documentation was due until the date it is provided. If the documentation is unacceptable as to format and completeness of contents based on RFP requirements, the State Medicaid Manual, and the Department's review, damages will be imposed by the Department against the Contractor until an acceptable document is received.

11.4 Key Dates –DDI Phase - Performance Requirement

- a. The Department and the Contractor agree that the CT MMIS must be developed, tested, and installed by 10/1/2007. Accomplishment of certain specified development activities by the key dates, as defined in RFP Section C.6, and established in the Detailed Project Workplan is necessary to ensure full compliance with that start date.
- b. If, for any reason, the Contractor is delayed in meeting these key dates and a contract amendment or modification to the Workplan is not approved,

damages may be assessed. Approval of a contract amendment or work plan modification does not summarily imply that damages will not be assessed.

11.5 Key Dates – DDI Phase– Damages

The Department may assess damages against the Contractor of five hundred dollars (\$500.00) per workday, or any part thereof, for each of the first ten (10) calendar days of delay in meeting a key date. Up to one thousand dollars (\$1,000.00) damages per work day, or any part thereof, may be assessed by the Department against the Contractor for each of the next thirty (30) calendar days of delay, up to two thousand dollars (\$2,000.00) damages per work day, or any part thereof, for each additional day of delay after that. These damages shall be in addition to any amounts assessed for delays in obtaining Federal certification and/or meeting the operational start date.

11.6 Key Personnel – DDI Phase - Performance Requirement

- a. Personnel commitments made in the Contractor's proposal for the Design, Development, and Implementation Phase activities shall not be changed without prior written approval of the Department MMIS Project Director, unless due to the resignation or death of any named individual. Staffing will include the following named individuals at the levels of effort specified in the proposal or as specified in the contract:
 - i. Project Manager/Account Manager;
 - ii. Deputy Project/Account Manager;
 - iii. Systems Manager;
 - iv. Implementation Task Manager;
 - v. Provider Relations Manager;
 - vi. Quality Assurance/Workplan Manager;
 - vii. Conversion Task Manager;
 - viii. Implementation/Claims Processing Manager;
 - ix. Pharmacy Program Manager; and
 - x. ConnPACE Manager.

11.7 Key Personnel – Operations Phase - Performance Requirement

- a. Personnel commitments made in the Contractor's proposal for the Operations Phase activities shall not be changed without prior written approval of the MMIS Project Director, unless due to the resignation or death of any named individual. Staffing will include the following named individuals at the levels of effort proposed or as specified in the contract:
 - xi. Project Manager/Account Manager;
 - xii. Deputy Project/Account Manager;
 - xiii. Systems Manager;

- xiv. Provider Relations Manager;
- xv. Quality Assurance/Workplan Manager;
- xvi. Operations/Claims Processing Manager;
- xvii. Pharmacy Program Manager; and
- xviii. ComPACE Manager.

- b. The State shall approve in advance, in writing, any permanent or temporary changes to or deletion from the Contractor's named management, supervisory, and key professional personnel.

11.8 Key Personnel – DDI and Operations Phase Damages

The Department may assess damages against the Contractor of five thousand dollars (\$5,000.00) damages per occurrence for each key person proposed by the Contractor who is changed for reasons other than death or disability or resignation or termination or military recall and up to an additional two hundred dollars (\$200.00) per work day damages may be assessed by the Department against the Contractor for each work day after an initial thirty (30) calendar days that an acceptable replacement for that position is not provided.

11.9 Operations Phase - Performance Requirements

- a. The following performance requirements and damages relate to critical Contractor responsibilities during the MMIS operations phase. Requirements and damages are defined for the following performance criteria:
 - i. Timeliness of claims processing;
 - ii. System availability and response time;
 - iii. Minimum file update processing cycles;
 - iv. Timeliness and accuracy of report production;
 - v. EDI and automated Customer Service Call Center;
 - vi. System maintenance and modification;
 - vii. Disaster Recovery and Periodic Testing; and
 - viii. Compliance with other material contract provisions.

11.10 Timeliness of Claims Processing – Operations Phase - Performance Requirement

- a. The Contractor shall meet the following claims processing timeliness standards:
 - i. Ninety-nine percent (99%) of all clean claims must be adjudicated for payment or denial within twenty-four (24) calendar days of receipt in the Contractor's mailroom.

- ii. Non-clean claims must be adjudicated within twenty-four (24) calendar days of the date of correction of the condition that caused the claim to be unclean.
- iii. All claims must be adjudicated within twelve (12) months of receipt in the Contractor's mailroom, except for those exempted from this requirement by Federal timely claims processing regulations.
- iv. All provider-initiated adjustments must be processed to payment or denial within twenty (20) calendar days of receipt in the Contractor's mailroom.
- v. All checks must be mailed within forty-eight (48) hours of receipt of said checks by the Contractor from the State.
- vi. Those circumstances when claim resolution is being handled directly by State staff in accordance with State guidelines or held by the Contractor under State written directive shall not be counted in the calendar days threshold.

11.11 Timeliness of Claims Processing – Operations Phase – Damages

The Department may assess damages against the Contractor of ten thousand dollars (\$10,000.00) for the first month of each failure to meet the performance requirements for the timeliness of claims processing as set forth in Section 11.10 above. Twenty thousand dollars (\$20,000.00) may be assessed by the Department against the Contractor for each consecutive subsequent month a requirement remains unmet. For example, failure to meet the above requirements for four (4) consecutive months could result in an assessment of damages of seventy thousand dollars (\$70,000.00).

11.12 MMIS System Response Time and Availability – Operations Phase - Performance Requirement

- a. Where on-line access to the system is specified, the Contractor must ensure that the average response time is no greater than the requirements set forth in RFP section C.1.2, at least ninety percent (90%) of the available production time between 7:00 a.m. and 6:00 p.m., Eastern Time, Monday through Friday for workstations, and 24 hours a day, 7 days a week except for agreed upon downtime for updating and preventive maintenance for EDI telecommunications access. Average response time per terminal per available production hour per day shall be reported weekly. Response time is defined in RFP Section C.1.2.
- b. The Contractor must ensure that on-line access to all MMIS applications is available for all State users between the hours of 7:00 a.m. to 6:00 p.m.,

Eastern Time, Monday through Friday. An application is considered unavailable when a user does not get the complete, correct full-screen response to an input transaction within five (5) seconds after depressing the "Enter" or other function key. The State will notify the Contractor when it has been determined that the system is unavailable. The Contractor will provide monthly reports showing system availability and unavailability by number of minutes per hour of the day. Cumulative system downtime must not exceed five (5) hours during any continuous five (5) day period.

- c. The Contractor shall provide access to the on-line system during off hours and on weekends at no extra charge whenever requested by the Department at least forty-eight (48) hours in advance.

11.13 MMIS System Response Time and Availability – Operations Phase - Damages

The Department may assess a penalty against the Contractor of up to one thousand dollars (\$1000.00) per week for the lack of access to MMIS applications in excess of five (5) hours during a continuous five (5) day period. The Department may assess a penalty of up to one hundred dollars (\$100.00) per day for each day that the response time report demonstrates that the average response is greater than the specified time. MMIS applications must be available ninety-five-percent (95%) of the available production hours in a week.

11.14 Minimum Cycles/File Update Processing/Pharmacy Prior Authorization Processing – Operations Phase - Performance Requirement

- a. The Contractor shall provide the following minimum number of file update, claims processing cycles and timely pharmacy prior authorization responses under this contract:
 - i. one (1) edit/pricing cycles per week;
 - ii. one (1) audit (history) cycles per week;
 - iii. one (1) payment cycle bi-weekly;
 - iv. on-line, real-time entry of data of all MMIS files with real-time or nightly processing of updates;
 - v. electronic updates to the drug file at least twice monthly;
 - vi. adjustments and recoupments keyed in for automated processing within ten (10) calendar days of receipt; and
 - vii. all pharmacy prior authorization requests within twenty-four (24) hours except as mandated by State statute or regulations.
- b. These requirements will also be reviewed for the quality of the data input and data entry keying accuracy standards of ninety-seven percent (97%), as determined by State reviews.

- c. Unless otherwise specified in the RFP, each file update process must be completed and the file available on-line by 7:00 a.m. on the morning following scheduled update and maintenance.

11.15 Minimum Cycles/File Update Processing/Pharmacy Prior Authorization Processing – Operations Phase – Damages

The Department may assess damages against the Contractor of up to two hundred fifty dollars (\$250.00) per hour for each hour of delay in completing the file update process for system master files by 7:00 a.m. of the next morning. The Department may assess damages against the Contractor of up to five thousand dollars (\$5,000.00) per incident for any weekly payment cycle or daily adjudication cycle that is not completed by 7:00 a.m. of the next morning after its scheduled processing, unless prior written approval is authorized by the State. The Department may assess damages against the Contractor of up to two hundred fifty dollars (\$250.00) per hour for each hour of delay in completing pharmacy prior authorization requests with twenty-four (24) hours of receipt except as otherwise mandated by State statute or regulations.

11.16 Timeliness and Accuracy of Report Production – Operations Phase - Performance Requirement

- a. MMIS reports must be produced in the format and type of media approved by the Department. The Contractor shall be responsible for the accuracy of all reports, including calculations and completeness of data used as input. The State shall notify the Contractor, in writing, of any inaccuracies or discrepancies.
- b. The Contractor shall deliver each MMIS report to the personnel and the location specified by the Department. The report distribution list, including delivery location, number of copies, and media will be defined by the State during the DDI Phase. The Contractor shall be required to update and maintain the report distribution list during the Operations Phase to incorporate any changes to existing reports at no additional cost to the Department.
- c. At a minimum, the Contractor will be required to furnish reports on the following schedule:
 - i. daily reports by noon of the following business day;
 - ii. weekly reports and cycle processing reports by noon of the next business day after the scheduled run;
 - iii. monthly reports by noon of the fifth business day after the end of the month;
 - iv. quarterly reports by noon of the fifth day after the end of the quarter;

- v. annual reports by noon of the tenth working day following the end of the year (whether Federal fiscal year, State fiscal year, waiver year, or other annual period); and
- vi. ad-hoc and on-request reports on the date specified in the report request.

11.17 Timeliness and Accuracy of Report Production – Operations Phase – Damages

- a. The Department may assess damages against the Contractor of up to fifty dollars (\$50.00) damages for each business day that any MMIS report is delivered to the correct location five (5) business days after the date when it is due, or includes less than the required number of copies, or is not in the approved medium.
- b. If a report is not corrected within ten (10) business days of the State's notice of failure to meet the reporting accuracy requirements, then the Department may assess damages against the Contractor of up to fifty dollars (\$50.00) per for each report that has been identified as inaccurate from the date of the notification until the date the corrected report is delivered.

11.18 Electronic Data Interchange (EDI) – Operations Phase - Performance Requirement

The automated features of the Customer Service Call Center, and all EDI interactions with the MMIS, must be available a minimum of twenty-three (23) hours per day for provider, and or client inquiry, input, and response purposes as applicable to each feature identified in the RFP. That availability must include all required and proposed venues for EDI.

11.19 Electronic Data Interchange (EDI) – Operations Phase – Damages

The Department may assess damages against the Contractor of up to five hundred dollars (\$500.00) per day for a verified period of time when automated Customer Service Call Center access, and all other EDI capabilities, are not available for provider inquiry, input, and response purposes for greater than one (1) hour in a day.

11.20 System Maintenance and Modification – Operations Phase - Performance Requirement

The Contractor must provide routine maintenance of the system at no additional charge to the State and not through use of the change control process. The Contractor must respond in writing to notices of system problems and Change Requests issued by the State within five (5) business days of receipt. Within fifteen (15) business days, the correction must be made or a requirements analysis and specifications document is due. The Contractor must correct the deficiency by an effective date to be mutually agreed

upon between both parties. All system modifications shall be performed in accordance with an agreed-upon schedule.

11.21 System Maintenance and Modification – Operations Phase – Damages

- a. Liquidated damages as set forth in the following payment reduction factor will be assessed by the Department against the Contractor for failure to meet the functions associated with the Change Request process as established by the Contractor's response to RFP Section C.8. The following schedules will be used by the Department to assess liquidated damages and shall be cumulative unless otherwise indicated:
 - i. failure to correct a system problem or complete a Change Request within the agreed upon completion date, where failure to complete was not due to the action or inaction on the part of the Department as documented in writing by the Contractor:
 1. $> 1 \leq 30$ calendar days late, two hundred and fifty dollars (\$250) per calendar day;
 2. $> 30 \leq 60$ calendar days late, five hundred dollars (\$500) per calendar day; and
 3. > 60 calendar days late, one thousand (\$1,000) dollars per calendar day.
- b. The Contractor's performance will be measured by the MMIS administrative and Change Request reports and by direct measurement by the Department.
- c. Payment of any liquidated damages will not relieve the Contractor from its obligation to meet the requirements established by the Contractor's response to the RFP in regard to the MMIS Maintenance and Modifications Task.

11.22 Disaster Recovery Implementation – Performance Requirement

- a. The Contractor shall prepare and implement a disaster recovery plan and procedures in accordance with the requirements set forth in Section C.1.1.6 of the RFP to ensure that the CT MMIS operations will not be interrupted for significant periods for any reason.

11.23 Disaster Recovery Implementation - Failure to Implement – Damages

- a. Liquidated damages as set forth in the following payment reduction factor will be assessed by the Department against the Contractor for not implementing its disaster recovery plan within the allotted timeframes

established by the Contractor's response to RFP Sections C.1.1.6. The following schedule will be used to assess liquidated damages:

- i. implementation of the disaster recovery plan exceeds the proposed time by ≤ 2 calendar days, five thousand dollars (\$5,000);
 - ii. implementation of the disaster recovery plan exceeds the proposed time by $> 2 \leq 5$ calendar days, ten thousand dollars (\$10,000);
 - iii. implementation of the disaster recovery plan exceeds the proposed time by $> 5 \leq 10$ calendar days, twenty-five thousand dollars (\$25,000);
 - iv. implementation of the disaster recovery plan exceeds the proposed time by $> 10 \leq 21$ calendar days, fifty thousand dollars (\$50,000); and
 - v. implementation of the disaster recovery plan exceeds the proposed time by > 21 calendar days, One hundred thousand dollars (\$100,000).
- b. The Contractor's performance will be measured by the ability of the backup facility(s) to perform 100 percent of the appropriate MMIS functions as measured by Department personnel.
 - c. Payment of any liquidated damages will not relieve the Contractor from its obligation to meet the requirements established by the Contractor's response to the RFP in regard to disaster recovery.

11.24 Compliance with Other Material Contract Provisions - Performance Requirement

- a. The objective of this standard is to provide the State with an administrative procedure to address general contract compliance issues that are not specifically defined as performance requirements listed in this Section 11, but are Contractor responsibilities contained in Section C. of this RFP.
- b. The Department staff may identify contract compliance issues resulting from the Contractor's performance of its responsibilities through routine contract monitoring activities. If this occurs, the Department will notify the Contractor in writing of the nature of the performance issue. The State will also designate a period of time in which the Contractor must provide a written response to the notification and will recommend, when appropriate, a reasonable period of time in which the Contractor should remedy the noncompliance.

11.25 Compliance with Other Material Contract Provisions – Damages

If the noncompliance is not corrected by the Contractor by the specified date, the Department may assess liquidated damages against the Contractor up to the amount of two hundred dollars (\$200.00) per working day after the due date until the noncompliance is corrected.

11.26 Customer Service Call Staff Availability - Performance Requirement

The Contractor shall insure that attendant staff coverage of the Customer Service Call Center is available ninety-nine percent (99%) of the time per day (example: Staffing is required a total of 45 hours per week. 45 hrs x 60 minutes = 2,700 minutes per week. 99% availability (.99) x 2,700 minutes = 2,673. 2,673 = the minimum time attendant staff coverage must be available). The Contractor shall be responsible for the telephone system. It is anticipated that Customer Service Call Center staff will be available and on-line from 8:00 a.m. until 5:00 p.m. local time Monday through Friday. Contractor shall supply weekly administrative reports detailing the performance of the system, contractor staff call statistics, and the availability of the system by hour.

11.27 Customer Service Call Staff Availability – Damages

Damages will accrue and be assessed by the Department against the Contractor at the rate of five hundred dollars (\$500.00) as measured each day for each percentage point below the requirement stated in RFP Section C.1.2.

SECTION XII PAYMENTS, REIMBURSEMENTS AND DEDUCTIONS

The Department shall use various methodologies for payment to the Contractor for the provision of services under this Contract. These methodologies shall take into consideration the differences of services purchased through this Contract, that is, Design, Development, and Implementation Phase activities, Operations Phase activities, and additional optional system modification activities.

12.1 DDI Phase – Pricing

- a. The total firm fixed price for the performance of each task (not including ConnPACE enrollment/re-enrollment requirements of the RFP) of the DDI Phase completed by the Contractor in accordance with the terms of this contract, the requirements of the RFP and the Contractor's proposal shall be the amount set forth in Pricing Schedule 1, Part 1 in the Contractor's cost proposal. Payment shall be made to the Contractor in accordance with the following schedule and as described below.

Milestone	Core MMIS Total	MMIS 10% Retainage	MMIS Payment Minus Retainage
1. Design Task			
MILESTONE: 1.1 Dept Approval of Updated Detailed Work Project Plan	\$1,550,832	\$155,083	\$1,395,749
MILESTONE: 1.2 Dept Approval of Requirements Validation Specification	\$2,232,369	\$223,237	\$2,009,132
MILESTONE: 1.3 Dept Approval of All Functional Area GSDs	\$1,602,888	\$160,289	\$1,442,599
MILESTONE: 1.4 Dept Approval of All Functional Area DSDs	\$1,669,086	\$166,909	\$1,502,177
2. Development/Testing Task			
MILESTONE: 2.1 Dept Approval of System Test Plan	\$24,674	\$2,467	\$22,207
MILESTONE: 2.2 Dept Approval of Integration and System Testing Results	\$7,454,270	\$745,427	\$6,708,843
MILESTONE: 2.3 Dept Approval of MMIS User Manuals	\$182,249	\$18,225	\$164,024
MILESTONE: 2.4 Dept Approval of MMIS Operating Procedures	\$24,860	\$2,486	\$22,374
MILESTONE: 2.5 Dept Approval of Provider Manuals	\$22,057	\$2,206	\$19,851
MILESTONE: 2.6 Dept Approval of Contingency Plan	\$24,674	\$2,467	\$22,207
MILESTONE: 2.7 Dept Approval of Revised Detailed System Design	\$268,420	\$26,842	\$241,578
MILESTONE: 2.8 Dept Approval of Integrated Test Facility	\$34,394	\$3,439	\$30,955
MILESTONE: 2.9 Dept Approval of Integrated Test Facility Procedures	\$24,860	\$2,486	\$22,374
3. Conversion Task			
MILESTONE: 3.1 Dept Approval of Conversion Plan	\$20,749	\$2,075	\$18,674
MILESTONE: 3.2 Dept Approval Conversion Test Results	\$594,787	\$59,479	\$535,308
MILESTONE: 3.3 Dept Approval of all preliminary converted files	\$1,280,229	\$128,023	\$1,152,206
4. User Acceptance Testing Task			
MILESTONE: 4.1 Dept Approval of User Acceptance Test Plan	\$43,740	\$4,374	\$39,366
MILESTONE: 4.2 Dept Approval of All Acceptance Test Resolutions Documents	\$4,234,160	\$423,416	\$3,810,744
MILESTONE: 4.3 Dept Approval of Updated MMIS User Manuals	\$234,400	\$23,440	\$210,960
MILESTONE: 4.4 Dept Approval of Updated MMIS Provider Manuals	\$22,057	\$2,206	\$19,851

MILESTONE: 4.5 Dept Approval of Operational Readiness Report	\$37,198	\$3,720	\$33,478
5. Implementation Task			
MILESTONE: 5.1 Dept Approval of MMIS Implementation Plan	\$24,860	\$0	\$24,860
MILESTONE: 5.2 Dept Approval of MMIS System Documentation	\$353,283	\$0	\$353,283
MILESTONE: 5.3 Dept Approval of Results of Final Data Conversion	\$19,253	\$0	\$19,253
MILESTONE: 5.4 MMIS fully operational for all claim types; Dept. approval of completion of training	\$983,024	\$0	\$983,024
MILESTONE: 5.5 MMIS Certification approval from CMS	\$279,823	\$0	\$279,823
-- 65% of MMIS retainage amount subtotal		\$1,402,892	
-- 35% of MMIS retainage amount subtotal		\$755,404	
TOTALS	\$23,243,196	\$2,158,296	\$21,084,900

- b. The Department shall retain ten (10%) percent of the firm fixed price set forth in Pricing Schedule 1, Part 1 in the Contractor's cost proposal, identified in the above schedule as "MMIS 10% retainage", for the:
- i. Design Task;
 - ii. Development/Testing Task;
 - iii. Conversion Task; and
 - iv. User Acceptance Testing Task.
- c. The Contractor shall be paid for their performance of the CT MMIS DDI Phase activities in accordance with the terms of this contract, the requirements of Section C6 of the RFP and the Contractor's proposal section in response to the RFP requirements (not including CompACE enrollment/re-enrollment requirements of the RFP) as set forth below:
- i. The Contractor may invoice the Department and the Department shall pay the Contractor the total fixed price less the MMIS 10% retainage for the following Design Task Milestones:
 1. Department approval of the Detailed Project Work Plan;
 2. Department approval of the Requirements Validation Specification Document ("RSD");
 3. Department approval of the General System Design ("GSD") document; and
 4. Department approval of the Detailed System Design ("DSD") document.

- ii. The Contractor may invoice the Department and the Department shall pay the Contractor the total fixed price less the MMIS 10% retainage for the following Development/Testing Task Milestones:
 1. Department approval of System Test Plan;
 2. Department approval of Integration and System Testing Results;
 3. Department approval of MMIS User Manuals;
 4. Department approval of MMIS Operating Procedures;
 5. Department approval of Provider Manuals;
 6. Department approval of Contingency Plan;
 7. Department approval of the Integrated Test Facility;
 8. Department approval of the Integrated Test Facility Procedures; and
 9. Department approval of Revised Detailed System Design.

- iii. The Contractor may invoice the Department and the Department shall pay the Contractor the total fixed price less the MMIS 10% retainage for the following Conversion Task Milestones:
 1. Department approval of Conversion Plan;
 2. Department approval of Conversion Test Results; and
 3. Department approval of all preliminary converted files.

- iv. The Contractor may invoice the Department and the Department shall pay the Contractor the total fixed price less the MMIS 10% retainage for the following User Acceptance Testing Task Milestones:
 1. Department approval of the User Acceptance Test Plan;
 2. Department approval of all User Acceptance Test Resolutions Documents;
 3. Department approval of the updated MMIS User Manuals;
 4. Department approval of the updated MMIS Provider Manuals; and
 5. Department approval of Contractor's Operational Readiness Report.

- v. The Contractor may invoice the Department and the Department shall pay the Contractor 100% of total fixed price for the following Implementation Task Milestones:
 1. Department approval of final data conversions;
 2. Department approval of final MMIS Systems Documentation;
 3. Department approval of the MMIS Implementation Plan;
 4. Department approval of the completion of training activities and Department approval of the Contractor's notice that the MMIS is fully operational for all claim types; and

5. MMIS certification approval from CMS.
- vi. The Contractor may invoice the Department and the Department shall pay the Contractor 65% of the MMIS 10% retainage (10% retainage of total fixed price for the Design Task Milestones + 10% retainage of total fixed price for the Development/Testing Task Milestones + 10% retainage of total fixed price for the Conversion Task Milestones + 10% retainage of total fixed price for the User Acceptance Testing Task Milestones) withheld by the Department

1. The systems documentation performance requirement as described in RFP Section F.12.1.1 - Systems Documentation – Performance Requirement has been met, and
2. The Performance Requirements as described in RFP Section F.12.3 - Performance Requirement of Operations Phase have been met for two (2) consecutive months, and
3. Four (4) interChange claims payment cycles have been completed and function as described in the RFP, and
4. Two (2) month-end cycles have been completed and the data warehouse extracts have been created and function as described in the RFP, and
5. The interChange system is accurately displaying and utilizing converted data as designed, and
6. The interChange system online response time is performing to the RFP requirements for two (2) consecutive months, and
7. The weekly EMS eligibility file replacement is completed and the interactive eligibility inquiries against EMS are performing to the RFP requirements for two (2) consecutive months.

All above criteria will be reviewed and must be approved by the Department in writing before invoices for the retainage amounts can be submitted.

- vii. The Contractor may invoice the Department and the Department shall pay the Contractor the remaining thirty-five percent (35%) of the MMIS milestone payment retainage upon CMS certification approval.

12.2 DDI Phase – ConnPACE Enrollment/Re-enrollment Pricing

- a. The total fixed price for each task of the DDI Phase for ConnPACE Enrollment/re-enrollment requirements completed by the Contractor in accordance with the terms of this contract, the requirements of the RFP and the Contractor's proposal shall be the set forth in Pricing Schedule 1,

Part 2 of the Contractor's Cost Proposal. Payment shall be made to the Contractor in accordance with the following schedule and as described below.

Milestone	Conn-PACE Total	Conn-PACE 10% Retainage	ConnPACE Payment Minus Retainage
1. Design Task			
MILESTONE: 1.1 Dept Approval of Updated Detailed Work Project Plan	\$43,824	\$4,382	\$39,442
MILESTONE: 1.2 Dept Approval of Requirements Validation Specification	\$63,082	\$6,308	\$56,774
MILESTONE: 1.3 Dept Approval of All Functional Area GSDs	\$45,294	\$4,529	\$40,765
MILESTONE: 1.4 Dept Approval of All Functional Area DSDs	\$47,165	\$4,717	\$42,448
2. Development/Testing Task			
MILESTONE: 2.1 Dept Approval of System Test Plan	\$697	\$70	\$627
MILESTONE: 2.2 Dept Approval of Integration and System Testing Results	\$210,642	\$21,064	\$189,578
MILESTONE: 2.3 Dept Approval of MMIS User Manuals	\$5,150	\$515	\$4,635
MILESTONE: 2.4 Dept Approval of MMIS Operating Procedures	\$703	\$70	\$633
MILESTONE: 2.5 Dept Approval of Provider Manuals	\$623	\$62	\$561
MILESTONE: 2.6 Dept Approval of Contingency Plan	\$697	\$70	\$627
MILESTONE: 2.7 Dept Approval of Revised Detailed System Design	\$7,585	\$759	\$6,826
MILESTONE: 2.8 Dept Approval of Integrated Test Facility	\$972	\$97	\$875
MILESTONE: 2.9 Dept Approval of Integrated Test Facility Procedures	\$703	\$70	\$633
3. Conversion Task			
MILESTONE: 3.1 Dept Approval of Conversion Plan	\$586	\$59	\$527
MILESTONE: 3.2 Dept Approval Conversion Test Results	\$16,807	\$1,681	\$15,126
MILESTONE: 3.3 Dept Approval of all preliminary converted files	\$36,177	\$3,618	\$32,559
4. User Acceptance Testing Task			
MILESTONE: 4.1 Dept Approval of User Acceptance Test Plan	\$1,236	\$124	\$1,112
MILESTONE: 4.2 Dept Approval of All Acceptance Test Resolutions Documents	\$119,649	\$11,965	\$107,684

MILESTONE: 4.3 Dept Approval of Updated MMIS User Manuals	\$6,624	\$662	\$5,962
MILESTONE: 4.4 Dept Approval of Updated MMIS Provider Manuals	\$623	\$62	\$561
MILESTONE: 4.5 Dept Approval of Operational Readiness Report	\$1,051	\$105	\$946
5. Implementation Task			
MILESTONE: 5.1 Dept Approval of MMIS Implementation Plan	\$703	\$0	\$703
MILESTONE: 5.2 Dept Approval of MMIS System Documentation	\$9,983	\$0	\$9,983
MILESTONE: 5.3 Dept Approval of Results of Final Data Conversion	\$544	\$0	\$544
MILESTONE: 5.4 MMIS fully operational for all claim types and ConnPACE enrollment/re-enrollment processing; Dept. approval of completion of training	\$35,685	\$0	\$35,685
-- 100% of ConnPACE retainage amount subtotal		\$60,989	
TOTALS	\$656,805	\$60,989	\$595,816

- b. The Department shall retain ten (10%) percent of the firm fixed price for DDI Phase for ConnPACE Enrollment/re-enrollment requirements set forth in Pricing Schedule 1, Part 2 in the Contractor's cost proposal identified in the above schedule as Conn-PACE 10% Retainage, for the:
- i. Design Task;
 - ii. Development/Testing Task;
 - iii. Conversion Task; and
 - iv. User Acceptance Testing Task.
- c. The Contractor shall be paid for their performance of CT MMIS DDI Phase activities for ConnPACE enrollment/re-enrollment in accordance with the terms of this contract, the requirements of Section C6 of the RFP and the Contractor's proposal section in response to the RFP requirements as set forth below:
- v. The Contractor may invoice the Department and the Department shall pay the Contractor the total fixed price less the Conn-PACE 10% Retainage for the following Design Task Milestones:
 1. Department approval of the Detailed Project Work Plan;
 2. Department approval of the RSD;
 3. Department approval of the GSD; and
 4. Department approval of the DSD.
 - vi. The Contractor may invoice the Department and the Department shall pay the Contractor the total fixed price less the Conn-PACE

10% Retainage for the following Development/Testing Task Milestones:

1. Department approval of System Test Plan;
 2. Department approval of Integration and System Test Results;
 3. Department approval of User Manuals;
 4. Department approval of Operating Procedures;
 5. Department approval of Provider Manuals;
 6. Department approval of Contingency Plan;
 7. Department approval of the Integrated Test Facility;
 8. Department approval of the Integrated Test Facility Procedures; and
 9. Department approval of Revised Detailed System Design.
- vii. The Contractor may invoice the Department and the Department shall pay the Contractor the total fixed price less the Conn-PACE 10% Retainage for the following Conversion Task Milestones:
1. Department approval of Conversion Plan;
 2. Department approval of Conversion Test Results; and
 3. Department approval of all preliminary converted files.
- viii. The Contractor may invoice the Department and the Department shall pay the Contractor the total fixed price less the Conn-PACE 10% Retainage for the following User Acceptance Testing Task Milestones:
1. Department approval of the User Acceptance Test Plans;
 2. Department approval of the User Acceptance Test Resolutions Document;
 3. Department approval of the updated User Manuals;
 4. Department approval of the updated Provider Manuals; and
 5. Department approval of Contractor's Operational Readiness Report.
- ix. The Contractor may invoice the Department and the Department shall pay the Contractor 100% of total fixed price for the following Implementation Task Milestones:
1. Department approval of final data conversions;
 2. Department approval of final Systems Documentation;
 3. Department approval of the Implementation Plan;
 4. Department approval of the completion of training activities and the Contractor's notice that the MMIS is fully operational for all claim types and ConnPACE enrollment/re-enrollment processing.

- x. The Contractor may invoice the Department and the Department shall pay the Contractor the Conn-PACE 10% retainage (Conn-PACE 10% retainage of total fixed price for the Design Task Milestones + Conn-PACE 10% retainage of total fixed price for the Development/Testing Task Milestones + Conn-PACE 10% retainage of total fixed price for the Conversion Task Milestones + Conn-PACE 10% retainage of total fixed price for the User Acceptance Testing Task Milestones) withheld by the Department if the MMIS and Contractor staff have met ConnPACE performance expectations in all material respects as described in RFP Section C.4.13.7 for two (2) consecutive months. The above will be reviewed and must be approved by the Department in writing before invoices for the retainage amount can be submitted.

12.3 DDI Phase - Optional Modification Hours

The Department reserves the right to require the Contractor to provide modification staff to complete optional modifications during the DDI Phase. If it becomes necessary to modify the MMIS during the DDI Phase, the Department shall inform the Contractor of the details of the modification. The Contractor shall present the Department with detailed documentation of the modification staff hours needed to complete the modification. Payment shall be based upon the number of hours authorized by the Department using the all-inclusive hourly rate set forth in Pricing Schedule 3 of the Contractor's Cost Proposal.

12.4 Operations Phase - Definition of a Claim

- a. For the purpose of claim volume accounting and reconciliation of changes in Contractor reimbursement, the following definitions of a claim, subject to the qualifiers also noted, shall apply to administrative claims processing adjudication counts tracked and reported by the Contractor.
 - i. **Institutional (UB-92, ANSI X12N 837 I)** - A claim is a paper document(s) or an electronic HIPAA compliant transaction requesting payment for services rendered during a statement period or date range for which there are one (1) or more accommodation, HCPCS, Revenue Center Codes, and/or ancillary codes. Each claim is identified by a unique Internal Control Number (ICN). This includes Part A Medicare crossover claims.
 - ii. **Professional/Dental (CMS 1500, ANSI X12N 837 P/D)** - A claim is a paper document or an electronic HIPAA compliant transaction requesting payment of each specific procedure code, or codes for services rendered to a client by the billing provider. Each claim is identified by a unique Internal Control Number (ICN). This includes Medicare Part B crossover claims.

- iii. **Pharmacy Claims (NCPDP 5.1/1.1)** - A claim is an electronic HIPAA compliant transaction requesting payment of each specific NDC code rendered to a client by the billing provider. However, a compound drug claim can include multiple details, but will be counted as a single claim. Each claim is identified by a unique Internal Control Number (ICN).
- b. Adjustments to paid claims are not countable as claims, regardless of the number of adjustments filed to a paid claim or the reason for the adjustments.
- c. All claims that require reprocessing due to errors caused by the Contractor in processing or due to system design are **not** chargeable to claim volume accounting during each fiscal year and must be identified and deleted from all contract administrative reports.
- d. No transaction shall be counted as a claim that does not meet the specific criteria stated above. Only claims adjudicated by the system for payment or denial shall be counted.

12.5 Operations Phase - ConnPACE Enrollment/Re-enrollment Applications

- a. For the purpose of measuring enrollment/re-enrollment activity within the ConnPACE program in consideration of Contractor reimbursement, the following definitions apply as counts tracked and reported by the Contractor.
 - i. **ConnPACE Enrollment Application** – A ConnPACE enrollment application is the receipt, processing and acceptance or rejection of an initial application for enrollment in the ConnPACE program by a single individual/applicant.
 - ii. **ConnPACE Re-enrollment Application** – A ConnPACE Re-enrollment application is the receipt, processing and acceptance or rejection of an application for Re-enrollment in the ConnPACE program by a single individual that has previously enrolled in ConnPACE.

12.6 Operations Phase - Pharmacy Prior Authorizations

- a. For the purpose of Pharmacy Prior Authorization activity in consideration of Contractor reimbursement, the following definitions apply as counts tracked and reported by the Contractor.

- i. A Pharmacy Prior Authorization is an approval or denial of a Pharmacy claim prior authorization request.

12.7 Operations Phase - Payment

On a monthly basis during the CT MMIS Operations Phase of the Contract the Contractor shall invoice the Department and the Department shall pay to the Contractor for the performance of services rendered in accordance with the terms of this Contract, the RFP and the Contractor's proposal, one-twelfth (1/12th) of the total fixed price for the anticipated volume range of claims (pharmacy and non-pharmacy), pharmacy prior authorizations, and ConnPACE enrollment/re-enrollment for the operations, maintenance, modification, and turnover, for the corresponding operations year, set forth in Pricing Schedule 2a through 2j, Operations Phase, Part 1 through Part 4 of the Contractor's cost proposal. There shall be no adjustment to the fixed price total for the year unless the volume for pharmacy claims, non-pharmacy claims, ConnPACE enrollment/re-enrollments, or Pharmacy Prior Authorizations falls outside the anticipated volume range as established by the Department in Pricing Schedule 2a through 2j, Part 1 through Part 4.

12.8 Adjustment of Operations Payments

If the actual claim, pharmacy prior authorizations, or ConnPACE enrollment/re-enrollment volume for a given year falls outside the anticipated volume range(s) set forth in Pricing Schedule 2.a (Year 1); Pricing Schedule 2.b (Year 2); Pricing Schedule 2.c (Year 3); Pricing Schedule 2.d (Year 4); Pricing Schedule 2.e (Year 5); Pricing Schedule 2.f (Year 6); Pricing Schedule 2.g (Year 7) of the Contractor's Cost Proposal, a year-end volume range adjustment to the amount payable for that year shall be made using the per claim, ConnPACE enrollment/re-enrollment, or Pharmacy prior authorization volume range adjustment price for the applicable volume range(s) bid set forth in Pricing Schedule 2.a (Year 1); Pricing Schedule 2.b (Year 2); Pricing Schedule 2.c (Year 3); Pricing Schedule 2.d (Year 4); Pricing Schedule 2.e (Year 5); Pricing Schedule 2.f (Year 6); Pricing Schedule 2.g (Year 7) of the Contractor's Cost Proposal. In addition, if the actual volumes for the second three (3) months (second quarter) of the Operations Phase, or any quarter thereafter, is less than twenty (20) percent of the lower band of the anticipated volume range or greater than twenty (20) percent of the upper band of the anticipated volume range for that Contract year, there shall be a quarterly adjustment. For any annual or quarterly volume range adjustments that result in a reduction of the fixed price total for a year, adjustment amounts to the operational payment shall be deducted from the invoice for the next payment due to the Contractor. If no payment or insufficient payment is due from which to deduct, Contractor shall directly issue payment to the Department via check or other mutually agreed upon means.

12.9 Maintenance and Modification Task

- a. The cost for providing ongoing systems maintenance and modification support, as defined in RFP Section C.7, and including machine time, person time, and documentation, is included in the firm fixed price for

each contract operations year set forth in the Pricing Schedules in the Contractor's cost proposal. As described in RFP Section C.7, this task requires full-time, **on-site** support from:

- i. a Modification Task Manager; and
 - ii. systems analysts.
- b. The State will have access to twelve thousand (12,000) actual hours of systems engineering support as defined in RFP section C.8.2 each contract year. All modification hours attributed to the twelve thousand (12,000) hour pool must be reported, by system change request, with an estimated hourly cost to ascertain the estimated cost associated with each system change request, in hardcopy and electronic media, monthly, in a format to be determined by the State, and are subject to audit. Hours will be used and can only be credited against the 12,000-actual-hour pool for work performed on State-approved change requests. For each hour that is not used in a contract year, the State shall have the hours rolled over to the next contract year or any subsequent option or extension years. Unused hours may be used in lieu of requesting additional support through an APD. Requests for additional full-time on-site modifications support are addressed in section 12.10 of this contract and in RFP Section F.13.3.3.
- c. The State considers Maintenance tasks to include preventive or corrective action(s) necessary to guarantee/ensure the integrity and timeliness of data, error-free application processing, and the adherence to documented performance standards and descriptions for both hardware and software. Examples of functions the State considers to be maintenance include:
- i. Maintenance of password ID's, applications changes and other data security functions;
 - ii. Report distribution changes;
 - iii. Report media type changes; and
 - iv. Maintenance of electronic claims receipt and RA distribution.
- d. The Contractor shall provide sufficient staff to perform all normal systems maintenance responsibilities. These individuals are separate and distinct from those defined above for modifications support.

12.10 Optional Modification Hours During the Operations Phase

The Department reserves the right to require the Contractor to provide modification staff to complete optional modifications during the Operations Phase. If it becomes necessary to modify the MMIS during the Operations above and beyond the ability of the annual twelve thousand (12,000 hours) of modification hours included in the fixed price for annual operations, the Department shall inform the Contractor of the requirements of the modification. The Contractor shall present the Department with an assessment of work required to complete the task, with detailed documentation including activities required to

complete the modification, the modification hours that will be needed, and identification of staff positions proposed to complete the modification. Payment shall be based upon the number of systems engineering hours authorized by the Department using the all-inclusive hourly rate set forth in Pricing Schedule 4 of the Contractor's Cost Proposal for the operations year the modification is occurring.

12.11 Turnover Task

- a. No separate payment will be made for the Contractor's performance of the Turnover Task activities defined in RFP Section C.9.4. Any anticipated costs should be included in the price bid for the last full year of operations under the base contract on Pricing Schedule 2j of the Contractor's Cost Proposal.
- b. To provide Contractor incentive to fully support the turnover of the Connecticut MMIS, supporting files, and other documentation to the Department or the successor Contractor, fifteen percent (15%) of the monthly contract operations payments for the last six (6) months of the contract will be retained by the Department and not paid to the Contractor until all turnover responsibilities are completed.

SECTION XIII

GENERAL PAYMENT PROVISIONS

13.1 Conditions of Payment

No payment obligation shall accrue under this Agreement, nor shall the Contractor be obligated to commence performance under this Agreement, nor will the Department process invoices for any property or services delivered by the Contractor under this Agreement, unless and until this Agreement (including any supplements which identify deliverable items) has been approved by the Centers for Medicare & Medicaid Services, U.S. Department of Health and Human Services (USDHHS), and the Connecticut Attorney General or his designated representative.

13.2 Prohibition Against Advance Payments

No payment shall be made by the Department in advance of, or in anticipation of, services actually performed and/or of supplies furnished under this contract. Monthly invoices must be submitted for work performed the previous month. Specifically excluded from this provision are the procedures for payment and possible adjustment for claim volume changes during the Operations Phase.

13.3 Invoice Processing

The Contractor shall submit to the Department its invoices for one-time charges such as milestone acceptances promptly following the delivery and acceptance of such goods and services. The Contractor shall submit to the Department its invoices for recurring

charges on or about the last day of each calendar month for which such charges are incurred or as quickly as "actual" costs are received. Invoices shall be submitted in such form as the Department's Division of Fiscal Analysis may require. The MMIS Project Manager will review each invoice and, within seven (7) State of Connecticut business days after its receipt, either approve it and deliver it to the Division of Fiscal Analysis for payment, or return it to the Contractor with a statement of the reasons for its rejection.


13.4 Actual Costs-Based Reimbursement

All postage required for correspondence, policies, billing instructions, and forms relating to the operation of the MMIS shall be paid by the Contractor who shall be reimbursed monthly for its "actual" costs. The Contractor shall exert all reasonable efforts to employ any commercially available techniques such as bulk mailing, consolidation of mailing and zip code pre-sorting or the use of carriers other than the United States Postal Service to reduce any postage costs assumed by the Department. For the purpose of this section, "postage" shall include amounts charged by commercial carriers, except that the Contractor shall not employ the services of commercial carriers without the prior written approval of the MMIS Project Director.

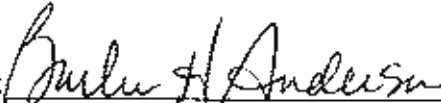
This Contract is entered into by the authority of Sections 4-8, 17b-2, 17b-3 and 17b-495 of the General Statutes of Connecticut and shall be effective following the execution of the Contract by the parties, the approval of the contract as to form by the State of Connecticut, Office of the Attorney General and the approval by the Centers for Medicare and Medicaid Services ("CMS").

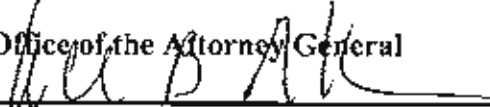
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

For the Department:

By:  Date: 11/3/05
Michael P. Starkowski
Deputy Commissioner

For EDS

By:  Date: 11/2/05
Barbara H. Anderson
Vice President

By the Office of the Attorney General

Attorney General (approved as to form) 11/29/05
Assoc. City Council Date