

# REQUEST FOR PROPOSALS

**Issuing Agency:** State of Connecticut Insurance Department  
153 Market Street, 7<sup>th</sup> Floor  
P.O. Box 816  
Hartford, CT 06142-0816

**Title:** REQUEST FOR PROPOSALS  
  
Selection of Independent Review Organizations to Conduct  
External Reviews of Appeals of Adverse Determinations

Proposals must be received **no later than September 27, 2019**. **All proposals must conform to the requirements as identified in this request.**

**SEND ALL PROPOSALS DIRECTLY TO THE STATE OF CONNECTICUT INSURANCE DEPARTMENT, ATTN: Business Office. [cid.admin@ct.gov](mailto:cid.admin@ct.gov) and/or mailing address below.**

**MAILING ADDRESS:** P.O. Box 816, Hartford, CT 06142-0816

**OFFICE ADDRESS:** 153 Market Street, 7<sup>th</sup> Floor  
Hartford, CT 06103

NB: OFFICE ADDRESS must be used for all express or special delivery mail or for hand delivery of any documents.

Questions regarding the proposal must be submitted by email only to:  
[cid.admin@ct.gov](mailto:cid.admin@ct.gov)

August 30, 2019

Responses to questions will be posted on [Insurance Department](#) website no later than:

September 6, 2019

Proposal Receipt Date

September 27, 2019

Selection to be announced approximately

October 25, 2019

Contracts targeted to be fully executed by

December 13, 2019

Contractor(s) to begin external review process:

January 1, 2020

Questions regarding the proposal must be submitted **by email** only to: [cid.admin@ct.gov](mailto:cid.admin@ct.gov)

In order to be considered for selection, proposals must arrive at the Department on or before the date specified. Applicants should allow for delivery time to ensure timely receipt of their proposals by the Department. Late proposals cannot be considered.

## **Background**

Part VII of Chapter 700c (“*Part VII*”) (codified at: C.G.S. §§38a-591 *et seq.*) provides grievances and reviews standards in Connecticut and conforms the Connecticut internal and external claim processes to the standards adopted by the Secretary of Health and Human Services (“HHS”) for compliance with Sec. 2719 of the Public Health Service Act (PHSA) as amended by the Patient Protection and Affordable Care Act of 2010 (P.L.111-148) (PPACA). Public Act 19-117 Sections 241-243 revised the time frames for expedited reviews effective January 1, 2020. Part VII requires generally that group health plans and health insurance issuers offering group or individual health insurance must implement an effective appeals process for appeals of coverage determinations and claims that complies with federal procedures set forth at section 2560.503-1 of title 29, Code of Federal Regulations, as published on November 21, 2000 (65 Fed. Reg. 70256), and shall update such process in accordance with any standards established by the Secretary of Labor for such plans and issuers. C.G.S. Section 38a-472f allows for an external review of denials for out of network provider exceptions.

Part VII provides for an appeal to the Connecticut Insurance Commissioner (“*Commissioner*”) of adverse determinations by health carriers who have exhausted the health carrier’s or utilization review company’s internal appeals procedures. The law requires the Commissioner to engage impartial, independent review entities to provide medical review for appeals. The Commissioner must accept the decision of the external review entity and the Commissioner’s decision will be binding.

The relevant statutes and regulations can be found at the links indicated in the Appendices along with the other following materials:

- Link to C.G.S. §§38a-591a *et seq.*;
- Link to Regulations of Connecticut State Agencies §§38a-591-1-38a-91-11
- Request for External Review Application and External Review Consumer Guide
- Cost Exhibit
- Sample Contract for External Appeal Services with all related certifications and affidavits
- Guide to Ethics for Current and Potential State Contractors
- Link to C.G.S. 38A-472f
- Link to Public Act 19-117 Sections 241-243

While the Insurance Department does not administer the external review process for self-funded health benefit plans, the Department has entered into a Memorandum of Understanding to administer the external review process for enrollees of the self-funded State of Connecticut Employees Benefit Plan (“*State EE Plan*”). The State EE Plan has elected to use the Insurance Department external review process and will accept the binding nature of the determination.

The Department is issuing this Request for Proposal (“*RFP*”) for the selection of one or more Independent Review Organizations (“*IRO*”) to provide independent and objective reviews of health carrier and utilization review company’s internal appeal decisions. The Department has historically processed approximately 250-300 appeals annually.

The Department reserves the right to approve any number of entities for designation as IROs through this RFP process. Services will be provided only upon execution of, and in accordance with, an agreement for external review services between the Commissioner and a designated IRO. Communications and submissions between the Department and the IROs are on an

electronic basis. **If a proposer cannot accommodate electronic transmission or receipt of data, they will not be considered.**

Note that the Department reserves and will retain the right at any time to:

1. Terminate a designation as an IRO without cause following a ninety (90) day written notice.
2. Terminate a designation as an IRO immediately if the Commissioner determines that the continuation of an existing designation may result in unfair, biased or unreliable determinations which pose a threat to public health.
3. Require an IRO to alter activities to be consistent with regulatory changes as they may occur.
4. Deny any assignment of an appeal if the Commissioner determines that such an assignment would result in a conflict of interest or would otherwise create the appearance of impropriety.
5. Deny any assignment of an appeal until an IRO has executed an agreement for external review services.
6. Revoke any assignment of an appeal if the Commissioner determines that such assignment has or is likely to result in a conflict of interest, excessive time delay or has otherwise created an appearance of impropriety. In such a case, the Commissioner will reassign the appeal.

### **Rejection of Proposal**

The Department reserves the right to reject any or all Proposals if, in its sole discretion, it deems either that such rejection is in the best interest of the State or that the Proposal does not conform to the requirements of this RFP. The Department shall have authority to award contracts to vendors who offer acceptable Proposals to the State, on the basis of cost and other factors considered.

Proposals will not be accepted from any entity or person, who is currently

- (i) a respondent or defendant in any administrative or civil action brought by the Commissioner alleging misfeasance or negligence in their professional capacity unless such action has been resolved with a finding or judgment of no misfeasance or negligence by the respondent or defendant; or
- (ii) a defendant in any action brought by the Commissioner in his or her capacity as liquidator or rehabilitator of an insurance company pursuant to chapter 704c of the Connecticut General Statutes alleging misfeasance or negligence by the defendant in their professional capacity, unless such action has been resolved with a finding or judgment of no misfeasance or negligence by the respondent or defendant.
- (iii) a person or entity against whom a finding or judgment of misfeasance or negligence has been upheld in any action by the Commissioner, during the period beginning July 1, 2016.

Following a review of the Proposals, the Agency Procurement Officer (“APO”) shall recommend an Applicant that satisfies the Department’s criteria as set forth in this RFP. The Department will comply with the non-discrimination and affirmative action provisions of the Connecticut General Statutes as well as any other laws affecting contracting and the awarding of state contracts along with any applicable federal laws in the ultimate engagement of outside services.

The Department may award contracts for services under the RFP to multiple Applicants.

### **Rights Reserved to the Department**

In addition to any other rights reserved to the Department, it shall have the right in its sole discretion to reject any Proposal, in whole or in part, for misrepresentation or because the Applicant is in default of any prior Department contract, or because the Proposal limits or modifies any of the terms and conditions and/or specifications of this RFP.

The Department also reserves the right to waive technical defect, irregularities and omissions if, in its sole discretion, the interest of the Department will be served. The Department further reserves the right to correct inaccurate awards resulting from its clerical errors. This may include, in extreme circumstances, revoking the awarding of a contract already made to a proposer and subsequently awarding the contract to another proposer. Such action on the part of the Department shall not constitute a breach of contract on the part of the Department since the contract with the initial Applicant is deemed to be void *ab initio* and of no effect as if no contract ever existed between the Department and the Applicant.

The Department also reserves the right to revise, discontinue or close to additional applicants this posting at any time.

### **Cost Liability**

The State of Connecticut assumes no responsibility and no liability for costs incurred by prospective vendors prior to issuance of a contract.

### **Important Information regarding Contract Form**

All Applicants should review the template Contract for Consulting Services ("Contract"), and the associated certifications and affidavits, samples of which is attached to this document as an Appendix. ***NOTE: The terms and conditions of the core Contract for Consulting Services are in conformity with the contracting laws of the State of Connecticut and cannot be negotiated. Failure to accept the terms and conditions of the Contract will be grounds for exclusion from consideration.*** Exhibit A to engagement Contract will reflect the negotiated Scope of Service requirements and compensation arrangements for each specific consulting engagement.

In addition, all persons submitting Proposals should familiarize themselves with the ethical rules which govern state contracts. Appendix I provides a link to the most recently published Guide to the Code of Ethics for Current or Potential State Contractors.

*Please Note:* The terms and conditions of the core Contract (including the certifications or affidavits) are subject to change from time to time, as required by changes to state law or under the requirements of the Office of the Attorney General, Department of Administrative Services, State Insurance and Risk Management Board, Office of Policy and Management or the State Contracting Standards Board. *The sample contract provided in the Appendix is representative only and should not be assumed as an offer nor should it be executed.*

## **Instructions to Applicants**

Proposals must contain all required information as requested in the section below entitled "Proposal Format and Content". In addition, all affidavits or certifications provided as attachments must be completed in full and returned as part of the proposal response.

## **Questions**

Questions regarding this RFP must be submitted in writing by email by August 30, 2019. Questions should be directed to:

Connecticut Insurance Department  
[cid.admin@ct.gov](mailto:cid.admin@ct.gov)

Questions and responses will be published on the [Insurance Department](https://portal.ct.gov/cid) website (<https://portal.ct.gov/cid>) no later than September 6, 2019.

Individual responses will not be issued, and we reserve the right not to issue responses to questions for which the requested information is available within this RFP.

## **Applicant's Proposal**

In order to be considered for selection, Applicants must submit a complete response to this RFP. **Electronic PDF submissions are preferred, but the Insurance Department will also accept one paper original and 5 copies** of each proposal, which must be submitted to the Insurance Department. No other distribution of the proposals shall be made by the Applicant.

The complete application package should be consecutively page numbered for ease of reference and shall consist of a proposal that includes the following information:

1. The cover letter, which must be signed by the Applicant's chief executive officer or an individual authorized to act in such capacity for the Applicant;
2. Identifiable and specific responses to each of the particular criteria set forth in this RFP;
3. A flow chart depicting the process by which external review will proceed from the time of receipt to the final decision, including maximum time required to complete each phase;
4. A statement certifying that all information included in the proposal and submitted is accurate to the best of the Applicant's knowledge and belief. The statement must be signed by the Applicant's chief executive officer or an individual authorized to act in such capacity for the applicant;
5. A statement certifying that the Applicant has received a copy of the current Guide to the Code of Ethics for Current or Potential State Contractors;
6. A statement certifying that the Applicant has reviewed the sample Contract and the associated certifications and affidavits and understands that a condition of being considered as a viable candidate is Applicant's acceptance of the terms and conditions of the core Contract, certifications and affidavits without any opportunity to negotiate any terms,

conditions or provisions other than the scope of service and cost for each service to be rendered. **(Please do not execute the sample Contract or any of the certifications/affidavits.)**

### **Acceptance of Proposal Content**

The contents of the proposal of any successful Applicant will become a part of any contract awarded as a result of these specifications.

### **Term of Contract**

The contract(s) for services will be for a period of three (3) years, beginning January 1, 2020.

### **Oral Presentation**

The Department will not require oral presentations.

### **Pricing and Billing**

All prices when established and agreed upon shall be firm and not subject to increase during the term of the contract unless the scope of services changes as a result of legislative enactments establishing or significantly altering the scope of work. Designated IROs will be required to directly bill the health carrier that is the subject of the appeal for services rendered. Payment for IRO services will be made by the health carrier that is the subject of the appeal directly to the IRO. The Insurance Department will not make the payment and will not be liable to the IRO.

### **Insurance Department Commitment**

- Upon receipt of a request for an external appeal, the Department shall assign that appeal to one of the selected entities. The Commissioner reserves the right to deny any assignment to any IRO if, in the Commissioner's discretion, such an assignment would result in a conflict of interest or would otherwise create an appearance of impropriety.
- The Department shall use reasonable efforts to inform IROs of legislative and regulatory changes affecting the external review process in Connecticut. This commitment does not absolve each vendors selected from responsibility to keep itself informed of regulatory or statutory changes that may be relevant.

### **Proposal Format and Content**

All instructions, terms and conditions contained in the proposal must be met in order to qualify for consideration of award. Those proposals which do not meet those conditions will be considered non-responsive. The proposal must be submitted in three, easily identifiable sections as follows:

- ***Section 1 - Technical Proposal***

This section shall describe the Applicant's approach and plans for accomplishing the review process described in the statutes. These plans and approaches should be described in sufficient detail to permit the Department to evaluate them fairly and with a minimum of possible misinterpretation. Further, the Applicant should describe the effort and skills necessary to complete the project.

- **Section 2 - Cost Proposal**

This section shall contain all information related to costs. Please use the cost exhibit found in the Appendices to this RFP.

- **Section 3 - Organizational Support and Experience**

This section shall contain all pertinent information relating to Applicant's organization, personnel and experience that would substantiate its qualifications and capabilities to perform the services required by the scope of the RFP.

**Section 1 Technical Proposal**

This section of the proposal shall contain at least the following information:

1. A brief introduction which outlines the Applicant's overall approach to performing external reviews and illustrates an understanding of the external review process that is to be implemented. Information should be provided on the specific capability of the IRO to accept transfer of electronic files including any capability for upload of electronic files through the IRO's website portal.
2. A description of how the work will be accomplished within each step of activity. Simple statements that a task will be completed, or a reiteration of the RFP tasks are not acceptable. Explain the process to be employed in reviewing an appealed adverse determination, from preliminary review to the final decision for both regular and expedited reviews. This explanation should include a description of the scope of services, the criteria to be used in the decision-making process, and the systems and methods used to process case reviews including:
  - Method of providing a decision in the mandated amount of time;
  - Method for selecting and assigning reviewers to cases including the recruitment, credentialing and assignment of appropriate specialist to cases;
  - Method for communication with parties involved in the appeal process;
  - System and method of rendering written decisions and the basis for the decisions;
  - Method of retaining written records for at least six years
  - Method for aggregate data reporting to the Department pursuant to statutory reporting requirements as follows:
    - (A) The total number of requests for an external review, whether such requests were for a standard or an expedited external review;
    - (B) The number of such requests resolved and, of those resolved, the number resolved upholding the adverse determination or final adverse determination and the number resolved reversing the adverse determination or final adverse determination;
    - (C) The average length of time for resolution;
    - (D) A summary of the types of coverages or cases for which a review was sought;
    - (E) The number of such reviews that were terminated as a result of reconsideration by the health carrier of its adverse determination or final adverse determination after the receipt of additional information from the covered person or the covered person's authorized representative; and

(F) Any other information the commissioner may request or require.

- Each independent review organization shall retain the written records required for not less than six years after the assignment of an external review or an expedited external review.

3. A summary of problems which an Applicant might reasonably expect to encounter and its solution to those anticipated problems should be provided.

## **Section 2 - Cost Proposal**

Applicants must complete the Cost Exhibit as provided in the Appendices to this RFP.

As noted above, payment will be made by the health carrier that is the subject of the appeal. The Insurance Department will have no obligation to make payments for the appeal reviews.

## **Section 3 - Organization Support and Experience**

Each Applicant must have received approval or accreditation by a nationally recognized private accrediting review entity approved by the Commissioner.

In addition, to be eligible for approval by the commissioner, an independent review organization shall:

(1) Have and maintain written policies and procedures that govern all aspects of both the standard external review process and the expedited external review process that include, at a minimum:

(A) A quality assurance mechanism in place that ensures:

(i) That external reviews and expedited external reviews are conducted within the specified time frames and required notices are provided in a timely manner;

(ii) (I) The selection of qualified and impartial clinical peers to conduct such reviews on behalf of the independent review organization and the suitable matching of such peers to specific cases, and (II) employs or contracts with an adequate number of clinical peers to meet this objective;

(iii) The confidentiality of medical and treatment records and clinical review criteria;

(iv) That any person employed by or under contract with the independent review organization adheres to the requirements of the Act; and

(B) A toll-free telephone number to receive information twenty-four hours a day, seven days a week, related to external reviews and expedited external reviews and that is capable of accepting, recording or providing appropriate instruction to incoming telephone callers during other than normal business hours;

(2) Agree to maintain and provide to the commissioner the information set forth in the Act;

(3) Not own or control, be a subsidiary of, be owned or controlled in any way by, or exercise control with a health benefit plan, a national, state or local trade association of health benefit plans, or a national, state or local trade association of health care professionals; and

(4) Assign as a clinical peer a health care professional who meets the following minimum qualifications:

(A) Is an expert in the treatment of the covered person's medical condition that is the subject of the review;

(B) Is knowledgeable about the recommended health care service or treatment through recent or current actual clinical experience treating patients with the same or similar medical condition of the covered person;

(C) Holds a non-restricted license in a state of the United States and, for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the subject of the review; and

(D) Has no history of disciplinary actions or sanctions, including loss of staff privileges or participation restrictions, that have been taken or are pending by any hospital, governmental agency or unit or regulatory body that raise a substantial question as to the clinical peer's physical, mental or professional competence or moral character.

The statutory definition of “**Clinical Peer**” means a physician or other health care professional who (A) holds a non-restricted license in a state of the United States and in the same or similar specialty as typically manages the medical condition, procedure or treatment under review, and (B) for an urgent care review concerning (i) a child or adolescent substance use disorder or a child or adolescent mental disorder, holds (I) a national board certification in child and adolescent psychiatry, or (II) a doctoral level psychology degree with training and clinical experience in the treatment of child and adolescent substance use disorder or child and adolescent mental disorder, as applicable, or (ii) an adult substance use disorder or an adult mental disorder, holds (I) a national board certification in psychiatry, or (II) a doctoral level psychology degree with training and clinical experience in the treatment of adult substance use disorders or adult mental disorders, as applicable.

The Applicant shall submit a description of the administration and operation of its organization including how it satisfied the above statutory requirements. .

This section of the proposal shall contain at least the following information:

1. Location of Applicant's headquarters and nearest offices. Include copy of Certificate of Incorporation or Partnership.
2. Any entity requesting designation as an IRO must provide the following about itself and any parent corporation and all subsidiaries and affiliates: (1) an organizational chart by ownership of all affiliated entities; (2) the names and addresses of owners/partners/shareholders of each entity; and (3) the names and addresses of members of the Board of each entity.

3. A chart of the Applicant's organization which shows, for key project staff members, their level of responsibility within that organization. Provide an estimate of the number, types and functions of the personnel considered necessary to the administration and operation of the organization on a statewide basis with a separate job description detailing the roles of key persons, such as a Medical Director. Include an explanation of the contractual and financial relationships between the IRO and the clinical personnel who will actually be responsible for individual case reviews.
4. A list of clinical personnel who may be assigned to review. The list shall include for each reviewer: the name, professional license(s), board certification and any sanctions imposed.
5. A list of all managed care organizations, health care centers, health care facilities and other health care providers with whom the IRO maintains any health related business arrangements. This list shall include a brief description of the nature of any such arrangement.
6. In responding to this RFP, the applicant must describe the means by which it will:
  - Provide licensed review personnel who possess the appropriate training and qualifications for the area in which they will be conducting the review. The proposal should include the criteria to be used for the selection or rejection of review personnel
  - Ensure the availability of appropriate personnel as needed for timely and efficient review.
  - Ensure the neutrality and objectivity of all personnel conducting external reviews and avoid conflicts of interest. Provide affirmative evidence that no conflict of interest exists.

Applicant should provide documentation which clearly shows the Applicant's experience in performing similar projects. The Applicant shall describe its experience in managed care utilization review, including an explanation of level(s) and scope of involvement in the review process. The Applicant may also provide a list of references including entities for which the applicant has performed utilization review.

### **Evaluation Criteria**

The following criteria, not necessarily listed in order of significance, will be used to evaluate proposals:

1. The Applicant's general approach and plans to meet the requirements of the RFP, including the scope of services.
2. The qualifications and quantified experience of personnel to be assigned review of review.
3. The Applicant's past performance on projects of similar scope and size, including experience in managed care utilization review.
4. The ability of the Applicant, as judged by the Department, to successfully perform the duties assigned to it within the proposed schedule. This judgment will be based on such factors as staff commitment, the project management plan and the availability of staff.
5. The Applicant's ability to maintain confidentiality of patient information.
6. Costs/fee structure.

7. The Applicant's ability to ensure the neutrality of physician reviewers.
8. Administrative and operational policies and procedures.
9. Performance evaluations on file for Applicant.

### **Agreement for External Review Services**

The Contract for External Review Services ("Contract") will be prepared by the Department. State statutory contractual provisions, a detailed description of the services to be provided, the fees, deliverables, timeframe(s) for completion as well as the responsibilities of the external review entity Contractor and the Department will be specified in the Contract.

By execution of the Contract, a designated external review entity is expressly agreeing to comply with all statutory provisions delineated in the Contract. A sample form of the Contract for External Review Services and associated certifications and affidavits is provided in the Appendices to this RFP. The form may contain revisions from previous forms, and *all Applicants should therefore review the Contract form very carefully*. The Contract contains statutory provisions required by the State of Connecticut which are not negotiable. Failure to accept the terms of the Contract will be grounds for exclusion from consideration.

Exhibit A to the Contract, will outline the scope of the services to be provided, time frame, fees, and the responsibilities of the Department and the IRO. Exhibit A will be prepared from and may contain excerpts from the IRO's proposal.

The Contract and all associated documents must be executed by a party who is authorized to bind the Contract, and the Department reserves the right to request an authorizing board of directors' resolution or certification under oath.

### **Appendices**

- I Links to Consumer's Guide, Ethics Guide and relevant statutes and regulations
- II Cost Exhibit
- III Sample Contract for External Appeal Services with related certifications (Form C, SEEC Form 10, OPM Ethics Form 1)
- IV Templates of various forms used to be used in the External Review Process

## **APPENDIX I**      Links to relevant materials

Link to “A Consumer’s Guide to Appealing Health Insurance Denials”

<https://portal.ct.gov/-/media/CID/ExternalAppealConsumerGuidepdf.pdf?la=en>

Link to “State Contractors’ Guide to the Code of Ethics”

[https://www.ct.gov/ethics/lib/ethics/guides/2019/contractors\\_guide\\_to\\_the\\_code\\_of\\_ethics\\_revjan2019.pdf](https://www.ct.gov/ethics/lib/ethics/guides/2019/contractors_guide_to_the_code_of_ethics_revjan2019.pdf)

Link to “UR, Grievance and Appeal Statutes”

[http://www.cga.ct.gov/current/pub/chap\\_700c.htm#sec\\_38a-591a](http://www.cga.ct.gov/current/pub/chap_700c.htm#sec_38a-591a)

Link to “Regulations of Connecticut State Agencies”

[https://eregulations.ct.gov/eRegsPortal/Browse/RCSA/Title\\_38aSubtitle\\_38a-591/](https://eregulations.ct.gov/eRegsPortal/Browse/RCSA/Title_38aSubtitle_38a-591/)

Network Adequacy Statute 38a-472f

[https://www.cga.ct.gov/current/pub/chap\\_700c.htm#sec\\_38a-472f](https://www.cga.ct.gov/current/pub/chap_700c.htm#sec_38a-472f)

Public Act 19-117: sections 241-243

<https://www.cga.ct.gov/2019/ACT/pa/pdf/2019PA-00117-R00HB-07424-PA.pdf>

**APPENDIX II – Cost Exhibit**

**COST EXHIBIT**

**Bidder Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

	Full Review	Consideration of new information Or Withdrawal of appeal prior to completion of full review
Standard Review		
Expedited Review		
Expedited Behavioral Health Review		
Experimental & Investigational		
Expedited Experimental & Investigational		

## APPENDIX III

### SAMPLE CONTRACT – NOT FOR EXECUTION

#### *CONTRACT FOR EXTERNAL REVIEW SERVICES*

This Contract (hereinafter “Contract”) between the **STATE OF CONNECTICUT** acting through the Insurance Commissioner of the State of Connecticut, (hereinafter the “State”), pursuant to sections 4-8, 38a-8 and 38a-591l of the Connecticut General Statutes, and [contractor] (hereinafter the “Contractor”). The parties hereto agree that services specified below shall be provided by Contractor in strict compliance with the provisions of the Contract.

#### **1. Entire Contract**

The Contract embodies the entire agreement between the State and Contractor on the matters specifically addressed herein. The parties shall not be bound by or liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein. The Contract shall supersede all prior written agreements between the parties and supersede all prior written agreements between the parties and their predecessors. No changes, amendments or modifications of any of the terms or conditions of the Contract shall be valid unless reduced to writing, signed by all parties, and, as applicable, approved by the Attorney General or his Deputy. The Contract shall inure to the benefit of each party’s heirs, successors, and assigns. In the event of a conflict between the main body of this Contract and an Exhibit to this Contract, the provisions of the main body of this Contract shall prevail.

#### **2. Amendments to the Contract or Changes in Services**

When reasonable or necessary changes to the services or fees described in Exhibit A to this Contract are requested, the Contractor shall promptly advise the State as to whether it agrees to the proposed changes and estimate their monetary effect, if any. The Contractor shall implement no change unless it is approved by the State in writing; and, unless otherwise agreed to in writing, the provisions of this Contract shall apply to all changes in the Contractor’s services. If the State determines that any change materially affects the cost or time of performance of this Contract as a whole, the Contractor and the State will mutually agree to an equitable adjustment, and this Contract shall be modified accordingly. The parties may agree to a reduction in the cost of the Contract at any time during which the Contract is in effect. Without intending to impose a limitation on the nature of the reduction, the reduction may be to hourly, staffing, or unit costs, the total cost of the Contract or the reduction may take such other form as the State deems to be necessary or appropriate.

Except for extensions made in accordance with the section dealing with the Duration of the Contract, no amendment to or modification or other alteration of the Contract shall be valid or binding upon the State unless made in writing, signed by all parties to the Contract, and if applicable, approved by the Connecticut Attorney General.

#### **3. Duration of Contract**

This Contract shall be in effect from January 1, 2018 through midnight December 31, 2020 unless earlier terminated pursuant to section 28 of this Contract. The duration of this Contract will be extended to accommodate changes in services made in accordance with section 2 of this Contract, or upon the express written agreement of the State and the Contractor.

#### **4. Price Schedule, Payment Terms and Billing**

Payment terms under this Contract are set forth in Exhibit B. Payment shall be made only after the health carrier as defined in Conn. Gen. Stat. §38a-591a (“Health Carrier”) using the services receives and accepts the services as set forth in Exhibit A and after it receives a properly completed invoice. Payment for all services shall be due within thirty (30) days after the Contractor issues the invoice for services provided. The Contractor shall submit an invoice to the Health Carrier for the services. The invoice shall include detailed information for the services delivered and performed. Any late charges should be calculated in accordance with the Connecticut General Statutes.

#### **5. Laws and Regulations**

**The Contractor, its employees and representatives shall at all times comply with all applicable laws, ordinances, statutes, rules, regulations and orders of governmental authorities, including those having jurisdiction over its registration and licensing to perform services hereunder. All references in this Contract to any statute, public act, regulation, code or executive order shall mean such statute, public act, regulation, code or executive order, respectively, as it has been amended, replaced or superseded at any time. Notwithstanding any language in this Contract that relates to such statute, public act, regulation, code or executive order, and notwithstanding a lack of a formal amendment to this Contract, this Contract shall always be read and interpreted as if it contained the most current and applicable wording and requirements of such statute, public act, regulation, code or executive order as if their most current language had been used in and requirements incorporated into this Contract at the time of its execution.**

#### **6. Notices**

All notices, demands, requests, consents, approvals or other communications required or permitted to be given or which are given with respect to this Contract (for the purpose of this section collectively called “Notices”) shall be deemed to have been effected at such time as the notice is placed in the U.S. mail, first class and postage pre-paid, return receipt requested, or, placed with a recognized, overnight express delivery service that provides for a return receipt or sent electronically by email or some other transmission mode, or faxed. All such Notices shall be in writing and shall be addressed as follows:

State: Kathy Walsh  
Principal Examiner  
State of Connecticut Insurance Department  
153 Market Street, 7<sup>th</sup> Floor  
Hartford, CT 06103  
860.297.3819  
[Kathleen.Walsh@ct.gov](mailto:Kathleen.Walsh@ct.gov)

Contractor:

The parties may change their respective addresses for notices under this section 7 upon prior written notification to each other.

#### **7. Independent Contractor**

- (a) The Contractor agrees to perform the Services hereunder solely as an Independent Contractor. The Parties to this Contract agree that it does not create any actual or apparent partnership, franchise,

or relationship of employer and employee between the parties. The Contractor is not authorized to enter into or commit the State to any agreements, and the Contractor shall not represent itself as the agent or legal representative of the State.

- (b) The Contractor is not entitled to participate in any State benefit program, including without limitation any health or retirement plans. The Contractor is not entitled to any remuneration, benefits, or expenses other than as specifically set forth in this Contract.
- (c) The State is not liable for taxes, Workers' Compensation, unemployment insurance, employers' liability, employer's FICA, social security, withholding tax, or other taxes or withholding for or on behalf of the Contractor or any other person consulted or employed by the Contractor in performing the services set forth in this Contract. All such costs are the Contractor's responsibility.
- (d) Contractor represents that it is fully experienced and properly qualified to perform the services provided for herein, and that it is properly licensed, accredited by a nationally recognized private accrediting entity that has independent review accreditation standards that the State has determined are equivalent to or exceed the minimum qualifications, equipped, organized and financed to perform such services. Contractor shall act as an independent contractor in performing the Contract, and shall maintain complete control over its employees and all of its subcontractors, if any. Contractor shall perform all services in accordance with its methods, subject to compliance with the Contract and all applicable laws and regulations. Contractor shall furnish fully qualified personnel to perform the services under the Contract. It is acknowledged that services rendered by the Contractor to the State hereunder do not in any way conflict with other contractual commitments with or by Contractor.
- (e) The Contractor has thoroughly searched its records deemed by the Contractor to be relevant to the services to be provided in accordance with this Contract, and represents that based on such search, services rendered by the Contractor to the State hereunder do not in any way conflict with other contractual commitments with or by the Contractor. The State recognizes that the Contractor is, however, engaged by new clients everyday and cannot assure that following commencement of the services, engagements with clients which may create a potential conflict will not occur with the Contractor. The Contractor will notify the State should they identify a conflict that occurs following commencement of services under this Contract.

#### **8. Contractor Guaranties.**

The Contractor, represents and warrants to State for itself and any Contractor Parties, that:

- (a) if they are entities, they are duly and validly existing under the laws of their respective states of organization and authorized to conduct business in the State of Connecticut in the manner contemplated by the Contract. Further, as appropriate, they have taken all necessary action to authorize the execution, delivery and performance of the Contract and have the power and authority to execute, deliver and perform their obligations under the Contract;
- (b) they will comply with all applicable State and Federal laws and municipal ordinances in satisfying their obligations to the State under and pursuant to the Contract, including, but not limited to (1) Connecticut General Statutes Title 1, Chapter 10, concerning the State's Codes of Ethics;
- (c) their execution, delivery and performance of the Contract will not violate, be in conflict with, result in a breach of or constitute (with or without due notice and/or lapse of time) a default under any of the following, as applicable: (1) any provision of law; (2) any order of any court or the State; or (3) any indenture, agreement, document or other instrument to which it is a party or by which it may be bound;

- (d) they are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any governmental entity;
- (e) as applicable, they have not, within the three years preceding the Contract, in any of their current or former jobs, been convicted of, or had a civil judgment rendered against them or against any person who would perform under the Contract, for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a transaction or contract with any governmental entity. This includes, but is not limited to, 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;
- (f) they are not presently indicted for or otherwise criminally or civilly charged by any governmental entity with commission of any of the offenses listed above;
- (g) they have not within the three years preceding the Contract had one or more contracts with any governmental entity terminated;
- (h) they have not employed or retained any entity or person, other than a bona fide employee working solely for them, to solicit or secure the Contract and that they have not paid or agreed to pay any entity or person, other than a bona fide employee working solely for them, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of the Contract or any assignments made in accordance with the terms of the Contract;
- (i) to the best of their knowledge, there are no claims involving the Contractor or Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under the Contract;
- (j) they shall disclose, to the best of their knowledge, to the State in writing any claims involving them that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under the Contract, no later than ten (10) calendar days after becoming aware or after they should have become aware of any such claims.
- (k) they are able to perform under the Contract using their own resources or the resources of a party who is not a Contractor;
- (l) they have paid all applicable workers' compensation second injury fund assessments concerning all previous work done in Connecticut;
- (m) they have a record of compliance with Occupational Health and Safety Administration regulations without any unabated, willful or serious violations;
- (n) they owe no unemployment compensation contributions;
- (o) they are not delinquent in the payment of any taxes owed, or, that they have filed a sales tax security bond, and they have, if and as applicable, filed for motor carrier road tax stickers and have paid all outstanding road taxes;
- (p) each Contractor Party has vested in the Contractor plenary authority to bind the Contractor Parties to the full extent necessary or appropriate to ensure full compliance with and Performance in accordance with all of the terms and conditions of the Contract and that all appropriate parties shall also provide, no later than fifteen (15) days after receiving a request from the State, such information as the State may require to evidence, in the State's sole determination, compliance with this section;

**9. Representations and Warranties.**

- (a) The Contractor represents and warrants to the State that it is duly and validly existing under the laws of its state of organization and authorized to conduct business in the State of Connecticut in the manner contemplated by the Contract. Further, as appropriate, Contractor has taken all necessary action to authorize the execution, delivery and performance of the Contract and has the power and authority to execute, deliver and perform their obligations under the Contract;
- (b) The Contractor agrees to provide the State, as agent for the State for the services herein, in the manner described in Exhibit A, the services set forth in Exhibit A attached hereto.
- (c) Contractor agrees to provide services as specified by the Contract in a manner that shall reflect its high regard for quality. Contractor agrees to take all reasonable steps necessary to safeguard data, files, reports, or other information from loss, destruction, or erasure. The State agrees to notify Contractor, in writing, of any incident that may give rise to liability on the part of Contractor within ten (10) days of the date of its acquiring knowledge of such potential liability. Contractor agrees to notify the State, in writing, of any incident that may give rise to liability on the part of the State within ten (10) days of the date of its acquiring knowledge of such potential liability.
- (d) The parties agree that the services to be provided under this Contract cannot be relied upon to disclose errors, irregularities including fraud or defalcations or illegal acts that may exist. The Contractor specifically agrees, however, that the Contractor shall inform the State of any such matters that come to its attention.
- (e) The Contractor recognizes section 1-86e(a) of the Connecticut General Statutes which states: No person hired by the state as a consultant or independent contractor shall (1) use the authority provided to the person under the contract, or any confidential information acquired in the performance of the contract, to obtain financial gain for the person, an employee of the person or a member of the immediate family of any such person or employee; (2) accept another state contract which would impair the independent judgment of the person in the performance of the existing contract; or (3) accept anything of value based on an understanding that the actions of the person on behalf of the state would be influenced.

**10. Notification of Liability and Disclosure of Contractor Parties Litigation.**

- (a) The State agrees to notify the Contractor, in writing, of any incident that the State recognizes as giving rise to liability on the part of the Contractor within ten (10) days of the date of its acquiring knowledge of such potential liability; and
- (b) The Contractor agrees to notify the State, in writing, of any incident that the Contractor recognizes as giving rise to liability on the part of the State within ten (10) days of the date of its acquiring knowledge of such potential liability.
- (c) The Contractor shall require that all subcontractors, as appropriate, disclose to the Contractor, to the best of their knowledge, any claims involving the subcontractors that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under the Contract, no later than ten (10) calendar days after becoming aware or after they should have become aware of any such claims. Disclosure shall be in writing.

## **11. Labor and Personnel**

At all times, Contractor shall utilize qualified personnel necessary to perform the services under the Contract.

## **12. Quality Control**

- (a) Contractor agrees to provide services as specified by the Contract in a manner that shall reflect its high regard for quality;
- (b) Contractor agrees to take all reasonable steps necessary to safeguard data, files, reports, or other information from loss, destruction, or erasure;
- (c) The State agrees to notify Contractor, in writing, of any incident that may give rise to liability on the part of Contractor within ten (10) days of the date of its acquiring knowledge of such potential liability; and
- (d) Contractor agrees to notify the State, in writing, of any incident that may give rise to liability on the part of the State within ten (10) days of the date of its acquiring knowledge of such potential liability.

## **13. Inspection**

- (a) The State may, at reasonable hours, inspect and examine all of the parts of the Contractor's plants and places of business which, in any way, are related to, or involved in, the performance of this Contract.
- (b) The Contractor shall maintain accurate and complete records. The Contractor shall make all of its records available at all reasonable hours for audit and inspection by the State.
- (c) The State shall make all requests for any audit or inspection in writing and shall provide the Contractor with at least twenty-four (24) hours' notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice.
- (d) All audits and inspections shall be at the State's expense.
- (e) The Contractor shall keep and preserve or cause to be kept and preserved all of records until three (3) years after the latter of (i) final payment under this Agreement, or (ii) the expiration or earlier termination of this Agreement, as the same may be modified for any reason. The State may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, the Contractor shall retain or cause to be retained all records until all claims or audit findings have been resolved.
- (f) The Contractor shall cooperate fully with the State in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
- (g) At the State's request, Contractor shall provide the State with hard copies of, magnetic tape or other form of electronic record containing, any data or information relating to the State's business, which data or information is in the possession or control of Contractor.
- (h) The Contractor shall incorporate this entire section verbatim into any contract or other agreement that it enters into with any subcontractor.

**14. Examination of Contractor's Records; Confidentiality**

Contractor shall maintain records and other evidence pertaining to work performed under the Contract during the contract period and for six full years from termination of the contract. Contractor shall maintain the confidentiality of medical information at all times in accordance with state and federal law. Contractor shall promptly honor any request from an individual for the return of medical records that are his property.

**15. Ownership of Material**

Any data provided to Contractor by the State or developed by Contractor with regard to the State shall belong exclusively to the State unless the State agrees in writing to the contrary.

**16. Nondisclosure**

Contractor shall not release any information concerning the services provided pursuant to the Contract or any part thereof to any member of the public, press, business entity or any official body without the prior written consent of the State.

**17. Forum and Choice of Law**

The parties deem the Contract to have been made in the City of Hartford, State of Connecticut. Both parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflict of laws. To the extent that any immunities provided by the Federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any claims in any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.

**18. Conflicts, Errors, Omissions and Discrepancies**

In case of conflicts, discrepancies, errors or omissions among the various parts of this Contract, any such matter shall be submitted immediately by the Contractor to the State for clarification. The State shall issue such clarification within a reasonable period of time. Any services affected by such conflicts, discrepancies, errors or omissions that are performed by the Contractor prior to clarification by the State shall be at the Contractor's risk.

**19. Confidentiality of Proprietary Information**

The State will afford due regard to the Contractor's request for the protection of proprietary or confidential information which the State receives. However, all materials associated with the submitted proposal and the Contract is subject to the terms of the Connecticut Freedom of Information Act ("FOIA") and all corresponding rules, regulations and interpretations. In making such a request, the Contractor may not merely state generally that the materials are proprietary or confidential in nature and not, therefore, subject to release to third parties. Those particular sentences, paragraphs, pages or sections that the vendor believes are exempt from disclosure under the FOIA must be specifically identified as such. Convincing explanation and rationale sufficient to justify each exemption consistent with the FOIA

must accompany the request. The rationale and explanation must be stated in terms of the prospective harm to 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 exempt from release pursuant to the FOIA. To the extent that any other provision or part of the Contract, conflicts or is in any way inconsistent with this section, this section controls and shall apply and the conflicting provision or part shall not be given effect. If the Contractor indicates that certain documentation is submitted in confidence, by specifically and clearly marking said documentation as “**CONFIDENTIAL,**” the State will endeavor to keep said information confidential to the extent permitted by law. The State, however, has no obligation to initiate, prosecute or defend any legal proceeding or to seek a protective order or other similar relief to prevent disclosure of any information that is sought pursuant to a FOIA request. The Bidder and Contractor shall have the burden of establishing the availability of any FOIA exemption in any proceeding where it is an issue. In no event shall the State have any liability for the disclosure of any documents or information in its possession which the State believes are required to be disclosed pursuant to the FOIA or other requirements of law.

## **20. Indemnification**

- (a) The Contractor shall indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) actions, suits, claims, demands, investigations and proceedings of any kind, open, pending, threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum (“Claims”) arising, directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively, the "Acts") of the Contractor or Contractor’s members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract and the Contractor intends for such other person or entity to perform under the Contract in any capacity (“Contractor Parties”); and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Contractor’s obligations under this section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Contractor’s bids submitted in response to the State’s request inviting bids, proposals, information or quotes for services or any Working Papers, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the performance of the Contract.
- (b) The Contractor shall not be responsible for indemnifying or holding the State harmless from any liability arising due to the negligence of the State or any other person or entity acting under the direct control or supervision of the State.
- (c) The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such Claims.
- (d) The Contractor’s duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.
- (e) The rights provided in this section for the benefit of the State shall encompass the recovery of attorneys’ and other professionals’ fees expended in pursuing a Claim against a third party.

- (f) This section shall survive the termination of the Contract and shall not be limited by reason of any insurance coverage.

**21. Insurance**

Before commencing performance of any work under this Contract, the Contractor shall obtain and maintain at its own cost and expense for the duration of the Contract, the following insurance as described in (a) through (d) below. The Contractor shall assume any and all deductibles in the described insurance policies. At the request of the State, the Contractor shall name the State as an additional insured on the policy and shall provide a copy of the policy to the State prior to the effective date of the Contract. The Contractor's insurers shall have no right of recovery or subrogation against the State and the described Contractor's insurance shall be primary coverage. The State shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that the State is contributorily negligent. Any failure to comply with the claim reporting provisions of the policy shall not affect coverage provided to the State.

- (a) Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall include, Premises and Operations, Independent Contractors, Products and Completed Operations, Contractual Liability and Broad Form Property Damage coverage. If a general aggregate is used, the general aggregate limit shall apply separately to the project or the general aggregate limit shall be twice the occurrence limit.
- (b) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury. Coverage extends to owned, hired and non-owned automobiles. If the Contractor does not own an automobile, but one is used in the execution of the Contract, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of the contract, then automobile coverage is not required.
- (c) Professional Liability: \$1,000,000 limit of liability.
- (d) Workers' Compensation and Employers Liability: Statutory coverage in compliance with the compensation laws of the State of Connecticut. Coverage shall include Employer's Liability with minimum limits of \$100,000 each accident, \$500,000 Disease-Policy Limit, \$100,000 each employee.

**22. Promotion**

- (a) Unless specifically authorized in writing by the Commissioner on a case by case basis, the Contractor shall have no right to use, and shall not use, the name of the State of Connecticut, its officials or employees, or the seal of the State:
  - (1) in any advertising, publicity, promotion; nor
  - (2) to express or to imply any endorsement of the Contractor's products or services; nor
  - (3) in any manner (whether or not similar to uses prohibited by subparagraphs (1) and (2) above), except only to prepare and deliver in accordance with this Contract such items as are hereby contracted for by the State.
- (b) Notwithstanding the provisions of paragraphs (a) above, nothing herein shall preclude or limit the Contractor from referring to the State as an entity that has engaged or have been the subject of services performed by the Contractor in connection with similar contracts providing it is done in

the ordinary course of marketing its business and only the general nature of the services rendered to the State in connection with this Contract are described.

**23. Non-Discrimination**

The Contractor agrees to the following provisions required pursuant to section 4a-60a of the Connecticut General Statutes.

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

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

- (i) "Commission" means the Commission on Human Rights and Opportunities;
- (ii) "Contract" and "contract" include any extension or modification of the Contract or contract;
- (iii) "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
- (iv) "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.
- (v) "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
- (vi) "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
- (vii) "marital status" means being single, married as recognized by the State of Connecticut, widowed, separated or divorced;
- (viii) "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;
- (ix) "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and
- (x) "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

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

(b) (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-68e 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.

**24. Executive Orders Numbers 3, 14, 16, 17 and 49**

This Contract is subject to the provisions of Executive Order Nos. Three (3) of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen (17) of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings, Executive Order No. Sixteen (16) of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, and Executive Order No. Forty-nine (49) of Governor Dannel P. Malloy concerning disclosure of gifts to public employees and campaign contributions to candidates for statewide public office or the General Assembly, all of which are incorporated into and are made a part of the Contract as if they had been fully set forth in it. The Contract may also be subject to Executive Order No. 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. If Executive Order 14 is applicable, it is deemed to be

incorporated into and are made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the State shall provide a copy of these orders to the Contractor.

**25. Americans With Disabilities Act**

The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 ("Act"), to the extent applicable, during the terms of this Contract. The State may cancel the Contract if the Contractor fails to comply with the Act.

**26. Sovereign Immunity/Litigation**

- (a) The parties acknowledge and agree that nothing in 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.
- (b) The Contractor agrees that the sole and exclusive means for the presentation of any claim against the State arising from this Contract shall be in accordance with 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.

**27. Changes In Ownership Or Status**

The Contractor shall notify the State in writing no later than ten (10) days from the effective date of any change in:

- (a) its certificate of incorporation or other organizational document;
- (b) more than a controlling interest in the ownership of the Contractor; or
- (c) the individual(s) in charge of the performance of the Contract.

This change shall not relieve the Contractor of any responsibility for the accuracy and completeness of the performance of the Contract. The State, after receiving written notice by the Contractor of any State's satisfaction, that any individuals retiring or otherwise separating from the Contractor have been compensated in full or that provision has been made for compensation in full, for all work performed under terms of the Contract. The Contractor shall deliver such documents to the State in accordance with the terms of the State's written request. The State may also require, and the Contractor shall deliver, a financial statement showing that solvency of the Contractor is maintained. The death of any Contractor Party, defined as "a Contractor's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract and the Contractor intends for such other person or entity to perform under the Contract in any capacity", as applicable, shall not release the Contractor from the obligation to perform under the Contract; the surviving Contractor Parties, as appropriate, must continue to perform under the Contract until performance is fully completed. Anything in the Contract to the contrary notwithstanding, the Commissioner reserves the right to terminate the Contract if the Commissioner determines that the reported change(s) may negatively impact the effectiveness or objectivity of Contractor.

**28. Termination of Contract**

- (a) Notwithstanding any provisions in this Contract, the State, through a duly authorized employee, may terminate the Contract whenever the State makes a written determination that such termination is in the best interests of the State. The State shall notify the Contractor in writing of termination pursuant to this section, which notice shall specify the effective date of termination and the extent to which the Contractor must complete its performance under the Contract prior to such date.
- (b) Notwithstanding any provisions in this Contract, the State, through a duly authorized employee, may, after making a written determination that the Contractor has breached the Contract, terminate the Contract in accordance with the provisions in the Breach section of this Contract.
- (c) The State shall send the notice of termination via certified mail, return receipt requested, to the Contractor at the most current address which the Contractor has furnished to the State for purposes of correspondence, or by hand delivery, or by electronic mail. Upon receiving the notice from the State, the Contractor shall immediately discontinue all services affected in accordance with the notice, undertake all commercially reasonable efforts to mitigate any losses or damages, and deliver to the State all Workpapers. The Workpapers are deemed to be the property of the State and the Contractor shall deliver them to the State no later than thirty (30) days after the termination of the Contract or fifteen (15) days after the Contractor receives a written request from the State for the Workpapers. The Contractor shall deliver those Workpapers that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to, ASCII or TXT.
- (d) Upon receipt of a written notice of termination from the State, the Contractor shall cease operations as the State directs in the notice, and take all actions that are necessary or appropriate, or that the State may reasonably direct, for the protection, and preservation of the Workpapers and any other property. Except for any work which the State directs the Contractor to perform in the notice prior to the effective date of termination, and except as otherwise provided in the notice, the Contractor shall terminate or conclude all existing subcontracts and purchase orders and shall not enter into any further subcontracts, purchase orders or commitments.
- (e) Upon termination of the Contract, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party, except with respect to the sections which survive termination. All representations, warranties, agreements and rights of the parties under the Contract shall survive such termination to the extent not otherwise limited in the Contract and without each one of them having to be specifically mentioned in the Contract.
- (f) Termination of the Contract pursuant to this section shall not be deemed to be a breach of contract by the State.
- (g) If the Contractor, during the term of this Contract, shall file for bankruptcy or be adjudicated bankrupt, or have any judgment of bankruptcy or insolvency entered against it, the State may terminate this Contract without notice.
- (h) In the event of termination of this Contract, the Contractor shall prepare and submit a final invoice to the State for payment by the Company in accordance with this Contract.

**29. Breach.**

If either party breaches the Contract in any respect, the non-breaching party shall provide written notice of such breach to the breaching party and afford the breaching party an opportunity to cure the breach within ten (10) days from the date that the breaching party receives such notice. Any other time provided for in the notice shall trump such ten (10) days. Such right to cure period shall be extended if the non-breaching party is satisfied that the breaching party is making a good faith effort to cure but the nature of the breach is such that it cannot be cured within the right to cure period. The notice may include an

effective Contract cancellation date if the breach is not cured by the stated date and, unless otherwise modified by the non-breaching party in writing prior to the cancellation date, no further action shall be required of any party to effect the Cancellation as of the stated date. If the notice does not set forth an effective Contract cancellation date, then the non-breaching party may cancel the Contract by giving the breaching party no less than twenty four (24) hours' prior written notice. If the State believes that the Contractor has not performed according to the Contract, the State may withhold payment in whole or in part pending resolution of the performance issue, provided that the State notifies the Contractor in writing prior to the date that the payment would have been due in accordance with this Contract.

**30. Survival**

The rights and obligations of the parties which by their nature survive termination or completion of the Contract, including but not limited to sections 14, 15, 16, 17, 19, 20, 22, 26, 32, and 40 of the Contract, shall remain in full force and effect.

**31. Specification of State Official**

Unless otherwise designated, wherever the term "Commissioner" is used in the Contract, it means "Insurance Commissioner" and shall include her authorized agent, employee or designee.

**32. Assignment and Third Parties**

The Contractor shall not assign any of its rights or obligations under this Contract, voluntarily or otherwise, in any manner without the prior written consent of the State. Notice shall be no less than thirty (30) days prior to the assignment of this Contract and shall include the identity of the assignee. The State may void any purported assignment in violation of this section and declare the Contractor in breach of contract. Any cancellation by the State for breach is without prejudice to the State's rights or possible claims. The Contract is between the State and Contractor only and shall not be relied upon by, or create any rights in, any third party.

**33. Non-Waiver**

None of the conditions of this Contract shall be considered waived by the State or the Contractor unless given in writing. No such waiver shall be a waiver of any past or future default, breach or modification of any of the conditions of this Contract unless expressly stipulated in such waiver.

**34. Severability**

If any part, parts, section or sections of the Contract shall be held to be void or unenforceable, such part, parts, section or sections shall be treated as severable, leaving valid the remainder of the Contract notwithstanding the part, parts, section or sections found to be void or unenforceable.

**35. Force Majeure**

The Contractor and the State shall not be responsible for delays or failures in performance resulting from acts beyond its control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental codes or regulations superimposed after the fact, failures of public or private

carrier or utility, fire, communication line failures, earthquakes, or other disasters. In the case of any such exception, the nonperforming party shall give immediate written notice to the other, explaining the cause and probable duration of any such nonperformance.

**36. Copies of Contract**

This Contract may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. Either copy may be introduced into evidence during a regulatory or legal proceeding. Facsimile or electronic signatures are original signatures.

**37. Incumbency Certificate**

Upon request, the State shall receive true and complete certificates from the Contractor, certifying that the signor is authorized to sign this Contract on behalf of their respective company.

**38. Contractor Certification**

- (a) By its signing this Contract, the Contractor certifies that no elected or appointed official or employee of the State has or will benefit financially or materially from this Contract. This Contract may be terminated by the State 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, or employees.
- (b) The Contractor certifies and attests that neither the Contractor nor any member of Contractor's staff has provided, or caused to be provided, gifts, as defined in Conn. Gen. Stat. § 1-79(e), to any state official or employee of the contracting agency.
- (c) The Contractor certifies that it has not been convicted of bribery or attempting to bribe an officer or employee of the State, nor has made an admission of guilt of such conduct which is a matter of record.
- (d) The Contractor certifies that no business, personal, or investment relationships exist, or have existed, between the Contractor or members of Contractor's staff and the State.
- (e) The Contractor certifies that no items of value have been provided to any elected or appointed official or employee of the State for which full payment has not been made.

**39. Campaign Contribution Restrictions**

For all State contracts defined in Connecticut General Statutes §9-612(g)(1) as 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 Contract 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, as set forth in attached "Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations C.

**40. Protection of Confidential Information - Breach of Security or Loss**

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

"Confidential Information" shall mean any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual including, but not limited to,

such individual's name, date of birth, mother's maiden name, motor vehicle operator's license number, Social Security number, employee identification number, employer or taxpayer identification number, alien registration number, government passport number, health insurance identification number, demand deposit account number, savings account number, credit card number, debit card number or unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation. Without limiting the foregoing, Confidential Information shall also include any information that the Department classifies as "confidential" or "restricted." Confidential Information shall not include information that may be lawfully obtained from publicly available sources or from federal, state, or local government records which are lawfully made available to the general public.

"Confidential Information Breach" shall mean, generally, an instance where an unauthorized person or entity accesses Confidential Information in any manner, including but not limited to the following occurrences: (1) any Confidential Information that is not encrypted or protected is misplaced, lost, stolen or in any way compromised; (2) one or more third parties have had access to or taken control or possession of any Confidential Information that is not encrypted or protected without prior written authorization from the State; (3) the unauthorized acquisition of encrypted or protected Confidential Information together with the confidential process or key that is capable of compromising the integrity of the Confidential Information; or (4) if there is a substantial risk of identity theft or fraud to the client, the Contractor, the Department or State.

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

(c) Each Contractor or Contractor Party shall develop, implement and maintain a comprehensive data - security program for the protection of Confidential Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for protection of Confidential Information, and information of a similar character, as set forth in all applicable federal and state law and written policy of the Department or State concerning the confidentiality of Confidential Information. Such data-security program shall include, but not be limited to, the following:

- 1) A security policy for employees related to the storage, access and transportation of data containing Confidential Information;
- 2) Reasonable restrictions on access to records containing Confidential 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 Confidential Information, including but not limited to passwords; and
- 5) Encrypting of Confidential Information that is stored on laptops, portable devices or being transmitted electronically.

(d) The Contractor and Contractor Parties shall notify the Department and the Connecticut Office of the Attorney General as soon as practical, but no later than twenty-four (24) hours, after they become aware of or suspect that any Confidential Information which Contractor or Contractor Parties possess or control has been subject to a Confidential Information Breach. If a Confidential Information Breach has occurred, the Contractor shall, within three (3) business days after the notification, present a credit monitoring and protection plan to the Commissioner of Administrative Services, the Department and the Connecticut Office of the Attorney General, for review and approval. Such credit monitoring or protection plan shall be made available by the Contractor at its own cost and expense to all individuals affected by the Confidential Information Breach. Such credit monitoring or protection plan shall include, but is not limited to reimbursement for the cost of placing and lifting one (1) security freeze per credit file pursuant

to Connecticut General Statutes § 36a-701a. Such credit monitoring or protection plans shall be approved by the State in accordance with this Section and shall cover a length of time commensurate with the circumstances of the Confidential Information Breach. The Contractors' costs and expenses for the credit monitoring and protection plan shall not be recoverable from the Department, any State of Connecticut entity or any affected individuals.

(e) The Contractor shall incorporate the requirements of this Section in all subcontracts requiring each Contractor Party to safeguard Confidential Information in the same manner as provided for in this Section.

**CONTRACTOR**

By \_\_\_\_\_ Date: \_\_\_\_\_  
Name:  
Title:

**CONNECTICUT INSURANCE COMMISSIONER**

\_\_\_\_\_ Date: \_\_\_\_\_  
Andrew N. Mais  
Insurance Commissioner

**APPROVED AS TO FORM - ATTORNEY GENERAL**

By \_\_\_\_\_ Date: \_\_\_\_\_  
Name:  
Title:

## EXHIBIT A

### SCOPE OF SERVICES

- (a) The Commissioner shall assign standard and expedited review requests for external appeal to Contractor in the form shown in Sample External Review Template Letters below or as amended.
- (b) Contractor agrees to conduct a full review of any appeal that the Commissioner assigns to it for review consistent with the provisions of Conn. Gen. Stat. §38a-591a *et seq.*. Contractor shall complete its review and issue the Contractor's decision to uphold, reverse or revise the health benefit plan's adverse determination, in the form shown in Sample External Review Template Letters below or as amended. Contractor's decision shall be accompanied by a written report of its review that shall be made available to the person who requested the appeal, the provider of record and the health benefit plan or utilization review company whose adverse determination was appealed. The Contractor's written report must satisfy the notice requirements as specified in Conn. Gen. Stat. §38a-591g(i)(2) and should also shall include identification of all materials used in the consideration of the appeal and the professional qualifications of the Contractor's reviewer.
- (c) Contractor may, at its discretion, terminate the external review and reverse the adverse determination if the health benefit plan fails to supply within the required timeframes the documents and information used in the health benefit plan's adverse determination.
- (d) If an appeal is reassigned, Contractor agrees to promptly forward all material in its possession concerning the appeal as the Commissioner may direct.
- (e) Contractor agrees to provide the Commissioner with a status report, which shall include information to be determined by the Commissioner and communicated to Contractor, at least annually.
- (f) Contractor shall maintain written records of all external reviews, whether standard or expedited external reviews, conducted by such organization in a calendar year. Contractor shall maintain such records in the aggregate by state where the covered person requesting such review resides and by health carrier, and shall submit a report to the Commissioner upon request, in a format prescribed by the Commissioner.

Such report shall include, in the aggregate by state where the covered person requesting such review resides and by health carrier:

- The total number of requests for an external review, whether such requests were for a standard or an expedited external review;
- The number of such requests resolved and, of those resolved, the number resolved upholding the adverse determination or final adverse determination and the number resolved reversing the adverse determination or final adverse determination;
- The average length of time for resolution;
- A summary of the types of coverages or cases for which a review was sought;
- The number of such reviews that were terminated as a result of reconsideration by the health carrier of its adverse determination or final adverse determination after the receipt of additional information from the covered person or the covered person's authorized representative; and
- Any other information the Commissioner may request or require.

- (g) Contractor shall retain the required written records for not less than six years after the assignment of an external review or an expedited external review.
- (h) In the event of termination of the Agreement, properties of either party shall be returned upon written request of the party. Contractor shall promptly return medical records that are the property of an individual to that person.
- (i) The Contractor shall submit an invoice to the Health Carrier for the services. The invoice shall include detailed information for the services delivered and performed, as applicable, and accepted. Any late charges should be calculated in accordance with the Connecticut General Statutes.

SAMPLE

**EXHIBIT B  
COMPENSATION**

The health carrier that issued the adverse determination or the final adverse determination that is the subject of the external review request or the expedited external review request shall pay the independent review organization for the cost of conducting the review. The State will provide appropriate billing and contact information for each health carrier to the Contractor.

The State agrees that compensation for services provided by Contractor in accordance with the Contract shall be as follows:

	Full Review	Consideration of new information Or Withdrawal of appeal prior to completion of full review
Standard Review		
Expedited Review		
Expedited Behavioral Health Review		
Experimental & Investigational		
Expedited Experimental & Investigational		