

# NEW HAVEN PUBLIC SCHOOLS AMENDMENT TO AGREEMENT

**CONTRACTOR:** New Haven Board of Education      **AMENDMENT #:** A1

**GRANT # if applicable:** **AGREEMENT #:** 22OECCDC01NHV

**ATTACH COPY OF FULLY EXECUTED AGREEMENT**

**GRANT NAME:** Infant/Toddler Grant-Child Daycare Contract SFY 2023/2024 Amendment      **DATE:** 2/16/23

**FUNDING SOURCE FOR AGREEMENT:** State of Connecticut Office of Early Childhood

**ACCT # FOR AGREEMENT:**2090-6430-56697-0442

**ORIGINAL AMOUNT OF AGREEMENT:** \$3,611,290.62

**AMOUNT OF AGREEMENT PRIOR TO THIS AMENDMENT:** \$3,611,290.62

\_\_\_X\_\_\_ **ACTUAL**    OR    \_\_\_ **ESTIMATE**

**AMOUNT OF THIS AMENDMENT:** \$ 915,000

\_\_\_X\_\_\_ **INCREASE** OR    \_\_\_ **DECREASE**

**AMOUNT OF AGREEMENT INCLUDING THIS AMENDMENT:** \$ 4,526,290.62

**FUNDING SOURCE & ACCT # FOR AMENDMENT:** State of Connecticut Office of Early Childhood – 2090-6430-56697-0442

**DESCRIPTION AND NEED FOR AMENDMENT:** The State of Connecticut Office of Early Childhood amended the original contract to include funds to support 24 additional slots for Friends Center for Children, LULAC and Morning Glory.

**ALL OF THE TERMS AND CONDITIONS OF ORIGINAL AGREEMENT REMAIN IN FULL FORCE AND EFFECT**

**CONTRACTOR'S SIGNATURE:** \_\_\_\_\_  
(Name) (Date)

\_\_\_\_\_  
(Title)

**NEW HAVEN BOARD OF EDUCATION:**

\_\_\_\_\_  
President (Date)



Ned Lamont  
Governor  
Susan Bysiewicz  
Lt. Governor

# STATE OF CONNECTICUT

## OFFICE OF EARLY CHILDHOOD



Connecticut Office of  
Early Childhood

Beth Bye  
Commissioner

February 16, 2023

Yesenia Rivera  
President  
New Haven Board of Education  
54 Meadow Street  
New Haven, CT 06519

<b>CONTRACT #:</b>	22OECDC01NHV
<b>AMENDMENT #:</b>	A1
<b>AMENDED PERIOD:</b>	06/27/2022 – 06/30/2024
<b>AMENDED AMOUNT:</b>	\$4,526,290.62

Dear Ms. Rivera:

The accompanying documents are for execution of the Purchase of Service contract amendment referenced above. This amendment is made possible through *Infant and Toddler Expansion* funding, as part of P.A. 22-80 (S.B. 1), and is intended to provide Connecticut families with increased access to new high-quality, affordable full-day/full-year infant and toddler care in existing Child Day Care contractor and subcontractor programs.

Carefully review all documents and, before the amendment is signed, contact me via email if any changes are necessary. Please return a PDF of all contract documents via email to me at [annette.carbone@ct.gov](mailto:annette.carbone@ct.gov) **ASAP**. The following documents are included:

- **Amendment terms**
- **Signature & Approvals** - Please have your authorized signatory sign and date, preferably in blue ink.

As noted in the amendment, award of the One-time Infant/Toddler Classroom Expansion funding is contingent upon OEC approval of a funding request that includes a detailed budget and justification indicating planned and/or actual expenditures. The workbook also provides a budget form with justification for the funding associated with the provision of the additional Infant/Toddler spaces. The completed workbook must be returned to the OEC for review no later than 30 days from the date of this correspondence.

For questions regarding contract content or funding request workbook, please contact me at [annette.carbone@ct.gov](mailto:annette.carbone@ct.gov).

Sincerely,

*Annette E. Carbone*

Grants and Contracts Specialist  
Office of Early Childhood  
450 Columbus Boulevard  
Hartford, CT 06134  
[annette.carbone@ct.gov](mailto:annette.carbone@ct.gov)

cc: OEC CDC Program staff



STATE OF CONNECTICUT  
OFFICE OF EARLY CHILDHOOD

## CONTRACT AMENDMENT

**Contractor:** New Haven Board of Education  
**Contractor Address:** 54 Meadow Street, New Haven, CT 06519  
**Contract Number:** 22OECCDC01NHV  
**Amendment Number:** A1  
**Amount as Amended:** \$4,526,290.62  
**Contract Term as Amended:** 06/27/2022 – 06/30/2024

The contract between **New Haven Board of Education** ("Contractor") and the Connecticut **Office of Early Childhood** ("Agency" or "Department"), which was last executed by the parties with an effective date of 06/27/2022 is hereby amended as follows:

- Part I, Section D.5.a and Page 1 of the contract are amended to increase the total maximum amount payable under this contract by **\$915,000.00** from **\$3,611,290.62** to **\$4,526,290.62**. The increased amount is composed of:
  - \$540,000.00** to fund 24 additional spaces of infant/toddler care, and
  - \$375,000.00** in one-time-only classroom expansion funding to provide up to \$75,000.00 per classroom to reimburse expenses incurred during SFY23 to add up to 5 classrooms to accommodate the additional spaces.
- Part I, Section B.2, the Categories of Care for service section of this contract is deleted and the following subsection shall be substituted in lieu thereof:

Transitional Week of Care

# Spaces	Categories of Care	Weekly Rate	# weeks
114	Spaces of full-time infant/toddler care	259.62	1
22	Spaces of infant/toddler wraparound care	90.87	1

SFY 2023

# Spaces	Categories of Care	Monthly Contract Rate	# months /year
114	Spaces of full-time infant/toddler care	1,125.00	12
22	Spaces of infant/toddler wraparound care	393.75	12

SFY 2023 – Infant/Toddler Expansion Services/Spaces

# Spaces	Categories of Care	Monthly Contract Rate	# months /year
24	Spaces of full-time infant/toddler care	1,125.00	8

SFY 2024

# Spaces	Categories of Care	Monthly Contract Rate	# months /year
114	Spaces of full-time infant/toddler care	1,125.00	12
22	Spaces of infant/toddler wraparound care	393.75	12



SFY 2024 – Infant/Toddler Expansion Services/Spaces

# Spaces	Categories of Care	Monthly Contract Rate	# months /year
24	Spaces of full-time infant/toddler care	1,125.00	12

3. The following section is added as Part I, Section B.14:

**One-time Infant/Toddler Classroom Expansion.**

- a. OEC shall award to the Contractor one-time State funding of up to a maximum of \$75,000 per new group of infant/toddlers, regardless of the number of physical classroom spaces utilized for the new group(s), for expenditures supporting expansion of classrooms or other required facilities, equipment put into use, or personnel hired, on or after July 1, 2022. Each new group of infant/toddlers shall consist of a group of one to a maximum of eight children in accordance with the following chart:

Number of Infant/Toddlers added	Classroom equivalents	Maximum funding
1-8	1	\$75,000
9-16	2	\$150,000
17-24	3	\$225,000
25-32	4	\$300,000
33-40	5	\$375,000
41-48	6	\$450,000

- b. The Contractor shall submit a funding request form, including a detailed budget with justifications of costs, for up to the maximum amount of funding allowed within 30 days of OEC's request for review and approval by the OEC, but no later than March 15, 2023. OEC's approval of such funds shall be based on approval of documented costs submitted by the Contractor. These funds must be fully expended by June 30, 2023 and can be utilized for costs of renovations, modifications, furniture, fixtures, equipment, playground repairs, training and professional development for infant/toddler classroom operations, teacher sign-on bonuses, or other costs approved by the OEC as deemed necessary to support program expansion. These funds are subject to a Single State Audit, and the Contractor must submit a separate end-of-year expenditure report to the OEC by August 31, 2023.
4. Part I, Section D.5.a of this contract is deleted and the following subsection is substituted in lieu thereof:
- Effective on 06/27/2022, the Contractor shall receive a maximum payment of **\$4,526,290.62** for performance under this contract, distributed as follows:
- (1) **A maximum of \$31,595.82 for Transitional Week of Care;**
  - (2) **A maximum of \$375,000.00 for One-time Classroom Expansion funding for State Fiscal Year 2023 only;**
  - (3) **A maximum of \$2,005,847.40 for State Fiscal Year 2023; and**
  - (4) **A maximum of \$2,113,847.40 for State Fiscal Year 2024.**
5. The following section is added to the contract as Part I, Section D.8:
8. **One-time Infant/Toddler Classroom Expansion Payment.** The Contractor shall submit to OEC a written funding request with a budget detailing Classroom Expansion costs on or before March 15, 2023, and the OEC shall make payment based on approved costs within 30 days of OEC written approval of said budget.
6. The budget in Part I, Section E.1 of the contract is hereby deleted and the following section is substituted in lieu thereof:



**Transitional Week of Care**

# Spaces	Categories of Care	Weekly Contract Rate	# Weeks	Total for Week
114	Spaces of full-time infant/toddler care	259.62	1	29,596.68
22	Spaces of infant/toddler wraparound care	90.87	1	1,999.14
<b>Total Amount for Services</b>				<b>31,595.82</b>

**SFY 2023 – One-time Classroom Expansion Funds**

# of Classroom Equivalents	Maximum funding per classroom equivalent	Maximum Total
5	75,000.00	375,000.00

**SFY 2023 – Spaces**

# Spaces	Categories of Care	Monthly Contract Rate	months/year	Total Yearly Amount
114	Spaces of full-time infant/toddler care	1,125.00	12	1,539,000.00
22	Spaces of infant/toddler wraparound care	393.75	12	103,950.00
<b>Total Amount for Services SFY 2023</b>				<b>1,642,950.00</b>
<b>COLA (Annualized)</b>				<b>58,769.56</b>
<b>COLA for staff salaries SFY 2023</b>				<b>88,127.84</b>
<b>TOTAL COLA</b>				<b>146,897.40</b>
<b>Total SFY 2023 Amount for Original Spaces</b>				<b>1,789,847.40</b>

**SFY 2023 – Infant/Toddler Expansion Program**

# Spaces	Categories of Care	Monthly Contract Rate	months/year	Total Yearly Amount
24	Spaces of full-time infant/toddler care	1,125.00	8	216,000.00
<b>SFY 2023 Infant/Toddler Expansion Space funding</b>				<b>216,000.00</b>

**SFY 2023 TOTAL FUNDING**

<b>Total Amount SFY 2023 for Original Spaces</b>			<b>1,789,847.40</b>
<b>SFY 2023 Infant/Toddler Expansion Space Funding</b>			<b>216,000.00</b>
<b>SFY 2023 TOTAL FUNDING</b>			<b>2,005,847.40</b>

**SFY 2024 – Spaces**

# Spaces	Categories of Care	Monthly Contract Rate	months/year	Total Yearly Amount
114	Spaces of full-time infant/toddler care	1,125.00	12	1,539,000.00
22	Spaces of infant/toddler wraparound care	393.75	12	103,950.00
<b>Total Amount for Services SFY 2024</b>				<b>1,642,950.00</b>
<b>TOTAL COLA</b>				<b>146,897.40</b>
<b>Total SFY 2024 for Original Spaces</b>				<b>1,789,847.40</b>

**SFY 2024 – Infant/Toddler Expansion Program**

# Spaces	Categories of Care	Monthly Contract Rate	months/year	Total Yearly Amount
24	Spaces of full-time infant/toddler care	1,125.00	12	324,000.00
<b>SFY 2024 Infant/Toddler Expansion Space funding</b>				<b>324,000.00</b>

**SFY 2024 TOTAL FUNDING**

	<b>Total SFY 2024 for Original Spaces</b>	<b>1,789,847.40</b>
	<b>SFY 2024 Infant/Toddler Expansion Space Funding</b>	<b>324,000.00</b>
	<b>SFY 2024 TOTAL FUNDING</b>	<b>2,113,847.40</b>

**TOTAL CONTRACT FUNDING**

	<b>Transitional Week of Care</b>	<b>31,595.82</b>
	SFY2023 Original Space Total	1,789,847.40
	SFY 23 Infant/Toddler Classroom Expansion Space Funding	216,000.00
	SFY 2023 One-time Classroom Expansion Funds	375,000.00
	<b>Total Amount SFY 2023</b>	<b>2,380,847.40</b>
	SFY 2024 Original Space Total	1,789,847.40
	SFY 24 Infant/Toddler Classroom Expansion Space Funding	324,000.00
	<b>Total Amount SFY 2024</b>	<b>2,113,847.40</b>
	<b>TOTAL FUNDING</b>	<b>4,526,290.62</b>

7. Pages 20-21, Part I, Section H.1 of this contract, shall change funding as follows:

Effective on 06/27/2022, the subcontracts shall be revised as follows:

Subcontracting Organization	Address	Description of Services	Performance Period	Payment Terms/ Total Value
LULAC Head Start, Inc.	250 Cedar Street, New Haven, CT 06519	Part I, Sections A, B, and C	Entire contract period	\$15,759.00 for Transitional Week of Care \$1,132,750.48 for SFY2023 \$1,027,750.48 for SFY2024
Morning Glory	49 Parmalee Avenue, New Haven, CT 06511	Part I, Sections A, B, and C	Entire contract period	\$4,153.92 for Transitional Week of Care \$346,321.79 for SFY2023 \$289,321.79 for SFY2024
Montessori School on Edgewood	230 Edgewood Avenue, New Haven, CT 06511	Part I, Sections A, B, and C	Entire contract period	\$5,192.40 for Transitional Week of Care \$294,152.23 for SFY2023 \$294,152.23 for SFY2024

Friends for Children Center	227 East Grand Avenue, New Haven, CT 06513	Part I, Sections A, B, and C	Entire contract period	\$6,490.50 for Transitional Week of Care \$607,622.90 for SFY2023 \$502,622.90 for SFY2024
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8. Effective on and after 11/18/2021, Part II labeled TERMS AND CONDITIONS of this contract shall be deleted in its entirety and replaced with the Part II on pages 5 through 18 of this amendment.
9. All terms and conditions of the original Contract, and any subsequent amendments thereto, which were not modified by this Amendment remain in full force and effect.



**PART II. TERMS AND CONDITIONS.** The Contractor shall comply with the following terms and conditions.

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

1. **"Bid"** shall mean a bid submitted in response to a solicitation.
2. **"Breach"** shall mean a party's failure to perform some contracted-for or agreed-upon act, or his failure to comply with a duty imposed by law which is owed to another or to society.
3. **"Cancellation"** shall mean an end to the Contract affected pursuant to a right which the Contract creates due to a Breach.
4. **"Claims"** shall mean all actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.
5. **"Client"** shall mean a recipient of the Contractor's Services.
6. **"Contract"** shall mean this agreement, as of its effective date, between the Contractor and the State for Services.
7. **"Contractor Parties"** shall mean a Contractor's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract (e.g. subcontractor) and the Contractor intends for such other person or entity to perform under the Contract in any capacity. For the purpose of this Contract, vendors of support services, not otherwise known as human service providers or educators, shall not be considered subcontractors, e.g. lawn care, unless such activity is considered part of a training, vocational or educational program.
8. **"Data"** shall mean all results, technical information and materials developed and/or obtained in the performance of the Services hereunder, including but not limited to all reports, survey and evaluation tools, surveys and evaluations, plans, charts, recordings (video and/or sound), pictures, curricula, electronically prepared presentations, public awareness or prevention campaign materials, drawings, analyses, graphic representations, computer programs and printouts, notes and memoranda, and documents, whether finished or unfinished, which result from or are prepared in connection with the Services performed hereunder.
9. **"Expiration"** shall mean an end to the Contract due to the completion in full of the mutual performances of the parties or due to the Contractor's term being completed.
10. **"Force Majeure"** shall mean events that materially affect the Services or the time schedule within which to perform and are outside the control of the party asserting that such an event has occurred, including, but not limited to, labor troubles unrelated to the Contractor, failure of or inadequate permanent power, unavoidable casualties, fire not caused by the Contractor, extraordinary weather conditions, disasters, riots, acts of God, insurrection or war.
11. **"Confidential Information" (formerly "Personal Information")** shall mean any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual including, but not limited to, such individual's name, date of birth, mother's maiden name, motor vehicle operator's license number, Social Security number, employee identification number, employer or taxpayer identification number, alien registration number, government passport number, health insurance identification number, demand deposit account number, savings account number, credit card number, debit card number or unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation. Without limiting the foregoing, Confidential Information shall also include any information regarding clients that the Agency 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.
12. **"Confidential Information Breach" (formerly "Personal Information Breach")** shall mean, generally, an instance where an unauthorized person or entity accesses Confidential Information in any manner, including but not limited to the following occurrences: (1) any Confidential Information that is not encrypted or protected is misplaced, lost, stolen or in any way compromised; (2) one or more third parties have had access to or taken control or possession of any Confidential Information that is not encrypted or protected without prior written authorization from the State; (3) the unauthorized acquisition of encrypted or protected Confidential Information together with the confidential process or key that is capable of compromising the integrity of the Confidential Information; or (4) if there is a substantial risk of identity theft or fraud to the client, the Agency, the Contractor, or the State.
13. **"Records"** shall mean all working papers and such other information and materials as may have been accumulated and/or produced by the Contractor in performing the Contract, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries, correspondence, and program and individual service records and other evidence of its accounting and billing procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature incurred in the performance of this Contract, kept or stored in any form.
14. **"Services"** shall mean the performance of Services as stated in Part I of this Contract.
15. **"State"** shall mean the State of Connecticut, including any agency, office, department, board, council, commission, institution or other executive branch agency of State Government.
16. **"Termination"** shall mean an end to the Contract affected pursuant to a right which the Contract creates, other than for a Breach.

**B. Client-Related Safeguards.**

1. **Safeguarding Client Information.** The Agency and the Contractor shall safeguard the use, publication and disclosure of information on all applicants for and all Clients who receive Services under this Contract with all applicable federal and state law concerning confidentiality and as may be further provided under the Contract.
2. **Reporting of Client Abuse or Neglect.** The Contractor shall comply with all reporting requirements relative to Client abuse and neglect, including but not limited to requirements as specified in C.G.S. §§ 17a-101 through 17a-101q, inclusive, 17a-102a, 17a-103 through 17a-103c, inclusive, 19a-216, 46b-120 (related to children); C.G.S. § 46a-11b (relative to persons with intellectual disabilities or any individual who receives services from the State); and C.G.S. § 17a-412 (relative to elderly persons).
3. **Background Checks.** The State may require that the Contractor and Contractor Parties undergo criminal background checks as provided for in the State of Connecticut Department of Emergency Services and Public Protection Administration and Operations Manual or such other State document as governs procedures for background checks. The Contractor and Contractor Parties shall cooperate fully as necessary or reasonably requested with the State and its agents in connection with such background checks.

**C. Contractor Obligations.**

1. **Cost Standards.** The Contractor and funding state Agency shall comply with the Cost Standards issued by OPM, as may be amended from time to time. The Cost Standards are published by OPM the Web at [http://www.ct.gov/opm/cwp/view.asp?a=2981&Q=382994&opmNav\\_GID=1806](http://www.ct.gov/opm/cwp/view.asp?a=2981&Q=382994&opmNav_GID=1806).



2. **Credits and Rights in Data.** Unless expressly waived in writing by the Agency, all Records and publications intended for public distribution during or resulting from the performances of this Contract shall include a statement acknowledging the financial support of the State and the Agency and, where applicable, the federal government. All such publications shall be released in conformance with applicable federal and state law and all regulations regarding confidentiality. Any liability arising from such a release by the Contractor shall be the sole responsibility of the Contractor and the Contractor shall indemnify and hold harmless the Agency, unless the Agency or its agents co-authored said publication and said release is done with the prior written approval of the Agency Head. All publications shall contain the following statement: "This publication does not express the views of the [Office of Early Childhood] or the State of Connecticut. The views and opinions expressed are those of the authors." Neither the Contractor nor any of its agents shall copyright Data and information obtained under this Contract, unless expressly previously authorized in writing by the Agency. The Agency shall have the right to publish, duplicate, use and disclose all such Data in any manner, and may authorize others to do so. The Agency may copyright any Data without prior Notice to the Contractor. The Contractor does not assume any responsibility for the use, publication or disclosure solely by the Agency of such Data.
3. **Organizational Information, Conflict of Interest, IRS Form 990.** During the term of this Contract and for the one hundred eighty (180) days following its date of Termination and/or Cancellation, the Contractor shall upon the Agency's request provide copies of the following documents within ten (10) days after receipt of the request:
  - (a) its most recent IRS Form 990 submitted to the Internal Revenue Service, and
  - (b) its most recent Annual Report filed with the Connecticut Secretary of the State's Office or such other information that the Agency deems appropriate with respect to the organization and affiliation of the Contractor and related entities.

**THIS PROVISION SHALL CONTINUE TO BE BINDING UPON THE CONTRACTOR FOR ONE HUNDRED AND EIGHTY (180) DAYS FOLLOWING THE TERMINATION OR CANCELLATION OF THE CONTRACT.**
4. **Federal Funds.**
  - (a) The Contractor shall comply with requirements relating to the receipt or use of federal funds. The Agency shall specify all such requirements in Part I of this Contract.
  - (b) The Contractor acknowledges that the Agency has established a policy, as mandated by section 6032 of the Deficit Reduction Act ("DRA") of 2005, P.L. 109-171, that provides detailed information about the Federal False Claims Act, 31 U.S.C. §§ 3729-3733, and other laws supporting the detection and prevention of fraud and abuse.
    - (1) Contractor acknowledges that it has received a copy of said policy and shall comply with its terms, as amended, and with all applicable state and federal laws, regulations and rules. Contractor shall provide said policy to subcontractors and shall require compliance with the terms of the policy. Failure to abide by the terms of the policy, as determined by the Agency, shall constitute a Breach of this Contract and may result in cancellation or termination of this Contract.
    - (2) This section applies if, under this Contract, the Contractor or Contractor Parties furnishes, or otherwise authorizes the furnishing of health care items or services, performs billing or coding functions, or is involved in monitoring of health care provided by the Agency.
  - (c) Contractor represents that it is not excluded, debarred, suspended or otherwise ineligible to participate in federal health care programs.
  - (d) Contractor shall not, for purposes of performing the Contract with the Agency, knowingly employ or contract with, with or without compensation:
    - (1) any individual or entity listed by a federal agency as excluded, debarred, suspended or otherwise ineligible to participate in federal health care programs; or
    - (2) any person or entity who is excluded from contracting with the State of Connecticut or the federal government (as reflected in the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, Department of Health and Human Services, Office of Inspector General ("HHS/OIG") Excluded Parties list and the Office of Foreign Assets Control ("OFAC") list of Specially Designated Nationals and Blocked Persons List). Contractor shall immediately notify the Agency should it become subject to an investigation or inquiry involving items or services reimbursable under a federal health care program or be listed as ineligible for participation in or to perform Services in connection with such program. The Agency may cancel or terminate this Contract immediately if at any point the Contractor, subcontractor or any of their employees are sanctioned, suspended, excluded from or otherwise become ineligible to participate in federal health care programs.
5. **Audit and Inspection of Plant, Places of Business and Records.**
  - (a) The State and its agents, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents, or where applicable, federal agencies, may, at reasonable hours, inspect and examine all of the parts of the Contractor's and Contractor's Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Contract. The Contractor shall comply with federal and state single audit standards as applicable.
  - (b) The Contractor shall maintain, and shall require each of the Contractor Parties to maintain accurate and complete Records. The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State and its agents.
  - (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) The Contractor will pay for all costs and expenses of any audit and inspection which reveals information that, in the sole determination of the State, is sufficient to constitute a breach by the Contractor under this Contract. The Contractor will remit full payment to the State for such audit or inspection no later than thirty (30) days after receiving an invoice from the State.
  - (e) The Contractor shall keep and preserve or cause to be kept and preserved all of its and Contractor Parties' Records until three (3) years after the latter of:
    - i. final payment under this Contract,



- ii. the expiration or earlier termination of this Contract, 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 and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
  - (g) The Contractor must incorporate this entire Section verbatim into any contract or other agreement it enters into with any Contractor Party.
6. **Related Party Transactions.** The Contractor shall report all related party transactions, as defined in this section, to the Agency on an annual basis in the appropriate fiscal report as specified in Part I of this Contract. "Related party" means a person or organization related through marriage, ability to control, ownership, family or business association. Past exercise of influence or control need not be shown, only the potential or ability to directly or indirectly exercise influence or control. "Related party transactions" between a Contractor or Contractor Party and a related party include, but are not limited to:
- (a) Real estate sales or leases;
  - (b) Leases for equipment, vehicles or household furnishings;
  - (c) Mortgages, loans and working capital loans; and
  - (d) Contracts for management, consultant and professional services as well as for materials, supplies and other services purchased by the Contractor or Contractor Party.
7. **Suspension or Debarment.** In addition to the representations and requirements set forth in Section C.4:
- (a) The Contractor certifies for itself and Contractor Parties involved in the administration of federal or state funds that they:
    - (1) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any governmental agency (federal, state or local);
    - (2) within a three year period preceding the effective date of this Contract, have not been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; for violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
    - (3) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the above offenses; and
    - (4) have not within a three year period preceding the effective date of this Contract had one or more public transactions terminated for cause or fault.
  - (b) Any change in the above status shall be immediately reported to the Agency.
8. **Liaison.** Each Party shall designate a liaison to facilitate a cooperative working relationship between the Contractor and the Agency in the performance and administration of this Contract.
9. **Subcontracts.** Each Contractor Party's identity, services to be rendered and costs shall be detailed in Part I of this Contract. Absent compliance with this requirement, no Contractor Party may be used or expense paid under this Contract unless expressly otherwise provided in Part I of this Contract. No Contractor Party shall acquire any direct right of payment from the Agency by virtue of this section or any other section of this Contract. The use of Contractor Parties shall not relieve the Contractor of any responsibility or liability under this Contract. The Contractor shall make available copies of all subcontracts to the Agency upon request.
10. **Independent Capacity of Contractor.** The Contractor and Contractor Parties shall act in an independent capacity and not as officers or employees of the state of Connecticut or of the Agency.
11. **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. Claims arising, directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively, the "Acts") of the Contractor or Contractor Parties; and
    - 2. liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts of 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
      - a. the confidentiality of any part of or all of the Contractor's bid or proposal, and
      - ii. Records, intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, or Goods furnished or used in the performance of the Contract. For purposes of this provision, "Goods" means all things which are movable at the time that the Contract is effective and which includes, without limiting this definition, supplies, materials and equipment.
  - (b) 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.
  - (c) 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 merely contributed in part to the Acts giving rise to the Claims. The Contractor shall not be responsible for indemnifying or holding the State harmless from any liability solely from the negligence of the State or any other person or entity acting under the direct control or supervision of the State.
  - (d) The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any provisions survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall cause the State to be named as an additional insured on the policy and shall provide
    - 1. a certificate of insurance,
    - 2. the declaration page and
    - 3. the additional insured endorsement to the policy to the Client Agency all in an electronic format acceptable to the Client Agency prior to the Effective Date of the Contract evidencing that the State is an additional insured. The Contractor



shall not begin performance until the delivery of these three (3) documents to the Client Agency. Contractor shall provide an annual electronic update of the three (3) documents to the Client Agency on or before each anniversary of the Effective Date during the Contract term. State shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that State is contributorily negligent.

(e) This section shall survive the Termination of the Contract and shall not be limited by reason of any insurance coverage.

12. **Insurance.** Before commencing performance, the Agency may require the Contractor to obtain and maintain specified insurance coverage. In the absence of specific Agency requirements, the Contractor shall obtain and maintain the following insurance coverage at its own cost and expense for the duration of the Contract:
  - (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 services to be performed under this Contract 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 vendor/contractor does not own an automobile, but one is used in the execution of this Contract, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of this Contract then automobile coverage is not required.
  - (c) Professional Liability. \$1,000,000 limit of liability, if applicable; and/or
  - (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.
13. **Sovereign Immunity.** The Contractor and Contractor Parties acknowledge and agree that nothing in the Contract, or the solicitation leading up to the Contract, shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Contract. To the extent that this Section conflicts with any other Section, this Section shall govern.
14. **Choice of Law/Choice of Forum, Settlement of Disputes, Claims Against the State.**
  - (a) The Contract shall be deemed to have been made in the City of Hartford, State of Connecticut. Both Parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.
  - (b) Any dispute concerning the interpretation or application of this Contract shall be decided by the Agency Head or his/her designee whose decision shall be final, subject to any rights the Contractor may have pursuant to state law. In appealing a dispute to the Agency Head pursuant to this section, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final resolution of a dispute, the Contractor and the Agency shall proceed diligently with the performance of the Contract.
  - (c) The Contractor agrees that the sole and exclusive means for the presentation of any claim against the State arising from this Contract shall be in accordance with Title 4, Chapter 53 of the Connecticut General Statutes (Claims Against the State) and the Contractor further agrees not to initiate legal proceedings, except as authorized by that Chapter, in any state or federal court in addition to or in lieu of said Chapter 53 proceedings.
15. **Compliance with Law and Policy, Facility Standards and Licensing.** Contractor shall comply with all:
  - (a) Pertinent local, state and federal laws and regulations as well as Agency policies and procedures applicable to contractor's programs as specified in this Contract. The Agency shall notify the Contractor of any applicable new or revised laws, regulations, policies or procedures which the Agency has responsibility to promulgate or enforce; and
  - (b) Applicable local, state and federal licensing, zoning, building, health, fire and safety regulations or ordinances, as well as standards and criteria of pertinent state and federal authorities. Unless otherwise provided by law, the Contractor is not relieved of compliance while formally contesting the authority to require such standards, regulations, statutes, ordinance or criteria.
16. **Representations and Warranties.** Contractor shall:
  - (a) Perform fully under the Contract;
  - (b) Pay for and/or secure all permits, licenses and fees and give all required or appropriate notices with respect to the provision of Services as described in Part I of this Contract; and
  - (c) Adhere to all contractual sections ensuring the confidentiality of all Records that the Contractor has access to and are exempt from disclosure under the State's Freedom of Information Act or other applicable law.
17. **Reports.** The Contractor shall provide the Agency with such statistical, financial and programmatic information necessary to monitor and evaluate compliance with the Contract. All requests for such information shall comply with all applicable state and federal confidentiality laws. The Contractor shall provide the Agency with such reports as the Agency requests as required by this Contract.
18. **Delinquent Reports.** The Contractor shall submit required reports by the designated due dates as identified in this Contract. After notice to the Contractor and an opportunity for a meeting with an Agency representative, the Agency reserves the right to withhold payments for services performed under this Contract if the Agency has not received acceptable progress reports, expenditure reports, refunds, and/or audits as required by this Contract or previous contracts for similar or equivalent services the Contractor has entered into with the Agency. This section shall survive any Termination of the Contract or the Expiration of its term.
19. **Protection of Confidential Information.**



- (a) Contractor and Contractor Parties, at their own expense, have a duty to and shall protect from a Confidential Information Breach any and all Confidential Information which they come to possess or control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with current industry standards.
  - (b) Each Contractor or Contractor Party shall develop, implement and maintain a comprehensive data – security program for the protection of Confidential Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for protection of Confidential Information, and information of a similar character, as set forth in all applicable federal and state law and written policy of the Agency 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.
  - (c) The Contractor and Contractor Parties shall notify the Agency and the Connecticut Office of the Attorney General as soon as practical, but no later than twenty-four (24) hours, after they become aware of or suspect that any Confidential Information which Contractor or Contractor Parties have come to possess or control has been subject to a Confidential Information Breach. If a Confidential Information Breach has occurred, the Contractor shall, within three (3) business days after the notification, present a credit monitoring and protection plan to the Commissioner of Administrative Services, the Agency 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 C.G.S. § 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 Agency, any State of Connecticut entity or any affected individuals.
  - (d) The Contractor shall incorporate the requirements of this Section in all subcontracts requiring each Contractor Party to safeguard Confidential Information in the same manner as provided for in this Section.
  - (e) Nothing in this Section shall supersede in any manner Contractor's or Contractor Party's obligations pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") or the provisions of this Contract concerning the obligations of the Contractor as a Business Associate of Covered Entity.
20. **Workforce Analysis.** The Contractor shall provide a workforce Analysis Affirmative Action report related to employment practices and procedures.
21. **Litigation.**
- (a) The Contractor shall require that all Contractor Parties, as appropriate, disclose to the Contractor, to the best of their knowledge, any Claims involving the Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under the Contract, no later than ten (10) days after becoming aware or after they should have become aware of any such Claims. Disclosure shall be in writing.
  - (b) The Contractor shall provide written Notice to the Agency of any final decision by any tribunal or state or federal agency or court which is adverse to the Contractor or which results in a settlement, compromise or claim or agreement of any kind for any action or proceeding brought against the Contractor or its employee or agent under the Americans with Disabilities Act of 1990 as revised or amended from time to time, Executive Orders Nos. 3 & 17 of Governor Thomas J. Meskill and any other requirements of federal or state law concerning equal employment opportunities or nondiscriminatory practices.

#### **D. Changes to the Contract, Termination, Cancellation and Expiration.**

##### **1. Contract Amendment.**

- (a) Should the parties execute an amendment to this Contract on or before its expiration date that extends the term of this Contract, then the term of this Contract shall be extended until an amendment is approved as to form by the Connecticut Office of the Attorney General provided the extension provided hereunder shall not exceed a period of 90 days. Upon approval of the amendment by the Connecticut Office of the Attorney General the term of the contract shall be in accord with the provisions of the approved amendment.
- (b) No amendment to or modification or other alteration of this Contract shall be valid or binding upon the parties unless made in writing, signed by the parties and, if applicable, approved by the Office of the Connecticut Attorney General.
- (c) The Agency may amend this Contract to reduce the contracted amount of compensation if:
  - (1) the total amount budgeted by the State for the operation of the Agency or Services provided under the program is reduced or made unavailable in any way; or
  - (2) federal funding reduction results in reallocation of funds within the Agency.
- (d) If the Agency decides to reduce the compensation, the Agency shall send written Notice to the Contractor. Within twenty (20) days of the Contractor's receipt of the Notice, the Contractor and the Agency shall negotiate the implementation of the reduction of compensation unless the parties mutually agree that such negotiations would be futile. If the parties fail to negotiate an implementation schedule, then the Agency may terminate the Contract effective no earlier than sixty (60) days from the date that the Contractor receives written notification of Termination and the date that work under this Contract shall cease.

##### **2. Contractor Changes and Assignment.**

- (a) The Contractor shall notify the Agency in writing:



- (1) at least ninety (90) days prior to the effective date of any fundamental changes in the Contractor's corporate status, including merger, acquisition, transfer of assets, and any change in fiduciary responsibility;
    - (2) no later than ten (10) days from the effective date of any change in:
      - (A) its certificate of incorporation or other organizational document;
      - (B) more than a controlling interest in the ownership of the Contractor; or
      - (C) the individual(s) in charge of the performance.
  - (b) No such change shall relieve the Contractor of any responsibility for the accuracy and completeness of the performance. The Agency, after receiving written Notice from the Contractor of any such change, may require such contracts, releases and other instruments evidencing, to the Agency's satisfaction, that any individuals retiring or otherwise separating from the Contractor have been compensated in full or that allowance has been made for compensation in full, for all work performed under terms of the Contract. The Contractor shall deliver such documents to the Agency in accordance with the terms of the Agency's written request. The Agency may also require, and the Contractor shall deliver, a financial statement showing that solvency of the Contractor is maintained. The death of any Contractor Party, as applicable, shall not release the Contractor from the obligation to perform under the Contract; the surviving Contractor Parties, as appropriate, must continue to perform under the Contract until performance is fully completed.
  - (c) Assignment. The Contractor shall not assign any of its rights or obligations under the Contract, voluntarily or otherwise, in any manner without the prior written consent of the Agency.
    - (1) The Contractor shall comply with requests for documentation deemed to be appropriate by the Agency in considering whether to consent to such assignment.
    - (2) The Agency shall notify the Contractor of its decision no later than forty-five (45) days from the date the Agency receives all requested documentation.
    - (3) The Agency may void any assignment made without the Agency's consent and deem such assignment to be in violation of this Section and to be in Breach of the Contract. Any cancellation of this Contract by the Agency for a Breach shall be without prejudice to the Agency's or the State's rights or possible claims against the Contractor.
- 3. Breach.**
- (a) If either party Breaches this Contract in any respect, the non-breaching party shall provide written notice of the Breach to the breaching party and afford the breaching party an opportunity to cure within ten (10) days from the date that the breaching party receives the notice. In the case of a Contractor Breach, the Agency may modify the ten (10) day cure period in the notice of Breach. The right to cure period shall be extended if the non-breaching party is satisfied that the breaching party is making a good faith effort to cure, but the nature of the Breach is such that it cannot be cured within the right to cure period. The Notice may include an effective Contract cancellation date if the Breach is not cured by the stated date and, unless otherwise modified by the non-breaching party in writing prior to the cancellation date, no further action shall be required of any party to effect the cancellation as of the stated date. If the notice does not set forth an effective Contract cancellation date, then the non-breaching party may cancel the Contract by giving the breaching party no less than twenty four (24) hours' prior written Notice after the expiration of the cure period.
  - (b) If the Agency believes that the Contractor has not performed according to the Contract, the Agency may:
    - (1) withhold payment in whole or in part pending resolution of the performance issue, provided that the Agency notifies the Contractor in writing prior to the date that the payment would have been due in accordance with the budget;
    - (2) temporarily discontinue all or part of the Services to be provided under the Contract;
    - (3) permanently discontinue part of the Services to be provided under the Contract;
    - (4) assign appropriate State personnel to provide contracted for Services to assure continued performance under the Contract until such time as the contractual Breach has been corrected to the satisfaction of the Agency;
    - (5) require that contract funding be used to enter into a subcontract with a person or persons designated by the Agency in order to bring the program into contractual compliance;
    - (6) take such other actions of any nature whatsoever as may be deemed appropriate for the best interests of the State or the program(s) provided under this Contract or both; or
    - (7) any combination of the above actions.
  - (c) The Contractor shall return all unexpended funds to the Agency no later than thirty (30) days after the Contractor receives a demand from the Agency.
  - (d) In addition to the rights and remedies granted to the Agency by this Contract, the Agency shall have all other rights and remedies granted to it by law in the event of Breach of or default by the Contractor under the terms of this Contract.
  - (e) The action of the Agency shall be considered final. If at any step in this process the Contractor fails to comply with the procedure and, as applicable, the mutually agreed plan of correction, the Agency may proceed with Breach remedies as listed under this section.
- 4. Non-enforcement Not to Constitute Waiver.** No waiver of any Breach of the Contract shall be interpreted or deemed to be a waiver of any other or subsequent Breach. All remedies afforded in the Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided in the Contract or at law or in equity. A party's failure to insist on strict performance of any section of the Contract shall only be deemed to be a waiver of rights and remedies concerning that specific instance of performance and shall not be deemed to be a waiver of any subsequent rights, remedies or Breach.
- 5. Suspension.** If the Agency determines in its sole discretion that the health and welfare of the Clients or public safety is being adversely affected, the Agency may immediately suspend in whole or in part the Contract without prior notice and take any action that it deems to be necessary or appropriate for the benefit of the Clients. The Agency shall notify the Contractor of the specific reasons for taking such action in writing within five (5) days of immediate suspension. Within five (5) days of receipt of this notice, the Contractor may request in writing a meeting with the Agency Head or designee. Any such meeting shall be held within five (5) days of the written request, or such later time as is mutually agreeable to the parties. At the meeting, the Contractor shall be given an opportunity to present information on why the Agency's actions should be reversed or modified. Within five (5) days of such meeting, the Agency shall notify the Contractor in writing of his/her decision upholding, reversing or modifying the action of the Agency head or designee. This action of the Agency head or designee shall be considered final.



**6. Ending the Contractual Relationship.**

- (a) This Contract shall remain in full force and effect for the duration of its entire term or until such time as it is terminated earlier by either party or cancelled. Either party may terminate this contract by providing at least sixty (60) days prior written notice pursuant to the Notice requirements of this Contract.
- (b) The Agency may immediately terminate the Contract in whole or in part whenever the Agency makes a determination that such termination is in the best interest of the State. Notwithstanding Section D.2, the Agency may immediately terminate or cancel this Contract in the event that the Contractor or any subcontractors becomes financially unstable to the point of threatening its ability to conduct the services required under this Contract, ceases to conduct business in the normal course, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or its assets.
- (c) The Agency shall notify the Contractor in writing of Termination pursuant to subsection (b) above, which shall specify the effective date of termination and the extent to which the Contractor must complete or immediately cease performance. Such Notice of Termination shall be sent in accordance with the Notice provision contained on page 1 of this Contract. Upon receiving the Notice from the Agency, the Contractor shall discontinue all Services affected in accordance with the Notice, undertake all reasonable and necessary efforts to mitigate any losses or damages, and deliver to the Agency all Records as defined in Section A.14, unless otherwise instructed by the Agency in writing, and take all actions that are necessary or appropriate, or that the Agency may reasonably direct, for the protection of Clients and preservation of any and all property. Such Records are deemed to be the property of the Agency and the Contractor shall deliver them to the Agency no later than thirty (30) days after the Termination of the Contract or fifteen (15) days after the Contractor receives a written request from the Agency for the specified records whichever is less. The Contractor shall deliver those Records that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to ASCII or .TXT.
- (d) The Agency may terminate the Contract at any time without prior notice when the funding for the Contract is no longer available.
- (e) The Contractor shall deliver to the Agency any deposits, prior payment, advance payment or down payment if the Contract is terminated by either party or cancelled within thirty (30) days after receiving demand from the Agency. The Contractor shall return to the Agency any funds not expended in accordance with the terms and conditions of the Contract and, if the Contractor fails to do so upon demand, the Agency may recoup said funds from any future payments owing under this Contract or any other contract between the State and the Contractor. Allowable costs, as detailed in audit findings, incurred until the date of termination or cancellation for operation or transition of program(s) under this Contract shall not be subject to recoupment.

**7. Transition after Termination or Expiration of Contract.**

- (a) If this Contract is terminated for any reason, cancelled or it expires in accordance with its term, the Contractor shall do and perform all things which the Agency determines to be necessary or appropriate to assist in the orderly transfer of Clients served under this Contract and shall assist in the orderly cessation of Services it performs under this Contract. In order to complete such transfer and wind down the performance, and only to the extent necessary or appropriate, if such activities are expected to take place beyond the stated end of the Contract term then the Contract shall be deemed to have been automatically extended by the mutual consent of the parties prior to its expiration without any affirmative act of either party, including executing an amendment to the Contract to extend the term, but only until the transfer and winding down are complete.
- (b) If this Contract is terminated, cancelled or not renewed, the Contractor shall return to the Agency any equipment, deposits or down payments made or purchased with start-up funds or other funds specifically designated for such purpose under this Contract in accordance with the written instructions from the Agency in accordance with the Notice provision of this Contract. Written instructions shall include, but not be limited to, a description of the equipment to be returned, where the equipment shall be returned to and who is responsible to pay for the delivery/shipping costs. Unless the Agency specifies a shorter time frame in the letter of instructions, the Contractor shall affect the returns to the Agency no later than sixty (60) days from the date that the Contractor receives Notice.

**E. Statutory and Regulatory Compliance.**

**Note:** The following provisions in this section do not apply if the Contractor is a municipality, political subdivision of the State, or a quasi-public agency: 5(i), 9, 11, 12, and 13.

- 1. Health Insurance Portability and Accountability Act of 1996.** Notwithstanding the language in Part II, Section E.1(c) of this Contract, the language below is not applicable if the Agency is not a Covered Entity for the purposes of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). However, if the Agency becomes a Covered Entity in the future and if the Contractor accordingly becomes a Business Associate, Contractor will comply with the terms of this Section upon written notice from the Agency that the Agency is a Covered Entity.

The Contractor ☐ IS or ☒ IS NOT CURRENTLY a Business Associate under the Health Insurance Portability and Accountability Act of 1996, as amended.

- (a) If the Contractor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as noted in this Contract, the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
- (c) The State of Connecticut Agency named on page 1 of this Contract ("Agency") is a "covered entity" as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor is a "business associate" of the Agency, as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor and the Agency agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), (Pub. L. 111-5, §§ 13400 to 13423), and more specifically with the Privacy and Security Rules at 45 C.F.R. parts 160 and 164, subparts A, C, and E (collectively referred to herein as the "HIPAA Standards").
- (f) Definitions



- (1) "Breach" shall have the same meaning as the term is defined in 45 C.F.R. § 164.402 and shall also include a use or disclosure of PHI that violates the HIPAA Standards.
  - (2) "Business Associate" shall mean the Contractor.
  - (3) "Covered Entity" shall mean the Agency of the State of Connecticut named on page 1 of this Contract.
  - (4) "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.
  - (5) "Electronic Health Record" shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. § 17921(5)).
  - (6) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
  - (7) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
  - (8) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, and includes electronic PHI, as defined in 45 C.F.R. § 160.103, limited to information created, maintained, transmitted or received by the Business Associate from or on behalf of the Covered Entity or from another Business Associate of the Covered Entity.
  - (9) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
  - (10) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
  - (11) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
  - (12) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.
  - (13) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.
  - (14) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subpart A and C.
  - (15) "Unsecured protected health information" shall have the same meaning as the term as defined in 45 C.F.R. § 164.402.
- (g) Obligations and Activities of Business Associates.
- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
  - (2) Business Associate agrees to use and maintain appropriate safeguards and comply with applicable HIPAA Standards with respect to all PHI and to prevent use or disclosure of PHI other than as provided for in this Section of the Contract and in accordance with HIPAA Standards.
  - (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
  - (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
  - (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
  - (6) Business Associate agrees in accordance with 45 C.F.R. § 502(c)(1)(ii) and § 164.308(d)(2), if applicable, to ensure that any subcontractor that creates, receives, maintains or transmits PHI on behalf of the Business Associate agrees to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such information.
  - (7) Business Associate agrees to provide access (including inspection, obtaining a copy or both), at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524. Business Associate shall not charge any fees greater than the lesser of the amount charged by the Covered Entity to an Individual for such records; the amount permitted by state law; or the Business Associate's actual cost of postage, labor and supplies for complying with the request.
  - (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner designated by the Covered Entity.
  - (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created, maintained, transmitted or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary investigating or determining Covered Entity's compliance with the HIPAA Standards.
  - (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
  - (11) Business Associate agrees to provide to Covered Entity, in a time and manner designated by the Covered Entity, information collected in accordance with subsection (g)(10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an Individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
  - (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.



- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. §§ 164.504(e), 164.308, 164.310, 164.312, and 164.316.
- (14) In the event that an Individual requests that the Business Associate
  - (A) restrict disclosures of PHI;
  - (B) provide an accounting of disclosures of the Individual's PHI;
  - (C) provide a copy of the Individual's PHI in an electronic health record; or
  - (D) amend PHI in the Individual's designated record set
 the Business Associate agrees to notify the Covered Entity, in writing, within five (5) business days of the request.
- (15) Business Associate agrees that it shall not, and shall ensure that its subcontractors do not, directly or indirectly, receive any remuneration in exchange for PHI of an Individual without
  - (A) the written approval of the Covered Entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract; and
  - (B) the valid authorization of the Individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act, (42 U.S.C. § 17935(d)(2)) and in any accompanying regulations
- (16) Obligations in the Event of a Breach.
  - (A) The Business Associate agrees that, following the discovery by the Business Associate or by a subcontractor of the Business Associate of any use or disclosure not provided for by this section of the Contract, any breach of unsecured PHI, or any Security Incident, it shall notify the Covered Entity of such breach in accordance with Subpart D of Part 164 of Title 45 of the Code of Federal Regulations and this Section of the Contract.
  - (B) Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than thirty (30) days after the breach is discovered by the Business Associate, or a subcontractor of the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to 45 C.F.R. § 164.412. A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate or its subcontractor. The notification shall include the identification and last known address, phone number and email address of each Individual (or the next of kin of the Individual if the Individual is deceased) whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
  - (C) The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
    - 1. A description of what happened, including the date of the breach; the date of the discovery of the breach; the unauthorized person, if known, who used the PHI or to whom it was disclosed; and whether the PHI was actually acquired or viewed.
    - 2. A description of the types of unsecured PHI that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
    - 3. The steps the Business Associate recommends that Individual(s) take to protect themselves from potential harm resulting from the breach.
    - 4. A detailed description of what the Business Associate is doing or has done to investigate the breach, to mitigate losses, and to protect against any further breaches.
    - 5. Whether a law enforcement official has advised the Business Associate, either verbally or in writing, that he or she has determined that notification or notice to Individuals or the posting required under 45 C.F.R. § 164.412 would impede a criminal investigation or cause damage to national security and; if so, include contact information for said official.
  - (D) If directed by the Covered Entity, the Business Associate agrees to conduct a risk assessment using at least the information in subparagraphs 1 to 4 inclusive, of (g)(16)(C) of this Section and determine whether, in its opinion, there is a low probability that the PHI has been compromised. Such recommendation shall be transmitted to the Covered Entity within twenty (20) business days of the Business Associate's notification to the Covered Entity.
  - (E) If the Covered Entity determines that there has been a breach, as defined in 45 C.F.R. § 164.402, by the Business Associate or a subcontractor of the Business Associate, if directed by the Covered Entity, shall provide all notifications required by 45 C.F.R. §§ 164.404 and 164.406.
  - (F) Business Associate agrees to provide appropriate staffing and have established procedures to ensure that Individuals informed of a breach have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site and a postal address. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.
  - (G) Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.
- (h) Permitted Uses and Disclosure by Business Associate.
  - (1) General Use and Disclosure Provisions. Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity



- as specified in this Contract, provided that such use or disclosure would not violate the HIPAA Standards if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
- (2) Specific Use and Disclosure Provisions
    - (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
    - (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
    - (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide data aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
  - (i) Obligations of Covered Entity.
    - (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
    - (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual(s) to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
    - (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
  - (j) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Standards if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.
  - (k) Term and Termination.
    - (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with provision (g)(10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
    - (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
      - (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
      - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
      - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
    - (3) Effect of Termination.
      - (A) Except as provided in (k)(2) of this Section of the Contract, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with section (g)(10) of this Section of the Contract to the Covered Entity within ten (10) business days of the notice of termination. This section shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
      - (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.
  - (l) Miscellaneous Sections.
    - (1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
    - (2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
    - (3) Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.
    - (4) Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.



- (5) Construction. This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
  - (6) Disclaimer. Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the sections of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
  - (7) Indemnification. The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, and the HIPAA Standards.
2. **Americans with Disabilities Act.** The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 (<http://www.ada.gov/>) as amended from time to time ("ADA") to the extent applicable, during the term of the Contract. The Agency may cancel or terminate this Contract if the Contractor fails to comply with the ADA. The Contractor represents that it is familiar with the terms of this Act and that it is in compliance with the law. The Contractor warrants that it shall hold the State harmless from any liability which may be imposed upon the state as a result of any failure of the Contractor to be in compliance with this ADA. As applicable, the Contractor shall comply with § 504 of the Federal Rehabilitation Act of 1973, as amended from time to time, 29 U.S.C. § 794 (Supp. 1993), regarding access to programs and facilities by people with disabilities.
  3. **Utilization of Minority Business Enterprises.** The Contractor shall perform under this Contract in accordance with 45 C.F.R. Part 74; and, as applicable, C.G.S. §§ 4a-60 to 4a-60a and 4a-60g to carry out this policy in the award of any subcontracts.
  4. **Priority Hiring.** Subject to the Contractor's exclusive right to determine the qualifications for all employment positions, the Contractor shall give priority to hiring welfare recipients who are subject to time-limited welfare and must find employment. The Contractor and the Agency shall work cooperatively to determine the number and types of positions to which this Section shall apply.
  5. **Non-discrimination.**
    - (a) For purposes of this Section, the following terms are defined as follows:
      - i. "Commission" means the Commission on Human Rights and Opportunities;
      - ii. "Contract" and "contract" include any extension or modification of the Contract or contract;
      - iii. "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
      - iv. "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.
      - v. "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
      - vi. "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
      - vii. "marital status" means being single, married as recognized by the State of Connecticut, widowed, separated or divorced;
      - viii. "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;
      - ix. "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of C.G.S. § 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, unless the contract is a municipal public works contract or quasi-public agency project contract,
      - (2) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in C.G.S. § 1-267,
      - (3) the federal government,
      - (4) a foreign government, or
      - (5) an agency of a subdivision, state or government described in the immediately preceding enumerated items (1), (2), (3), or (4).



- (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, status as a veteran, intellectual disability, 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 ensure 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, status as a veteran, intellectual disability, 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 C.G.S. §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to C.G.S. §§ 46a-56, 46a-68e, 46a-68f and 46a-86; 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 C.G.S. § 46a-56. If the contract is a public works contract, municipal public works contract or contract for a quasi-public agency project, the Contractor agrees and warrants that he or she will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works or quasi-public agency 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 in every subcontract entered into in order to fulfill any obligation of a municipal public works contract for a quasi-public agency project, 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 C.G.S. § 46a-56, as amended; 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 regarding a State contract, 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 C.G.S. § 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 C.G.S. § 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 C.G.S. § 46a-56 as amended; 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



regarding a State contract, 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.

- (i) **Nondiscrimination Certification.** Pursuant to subsection (c) of section 4a-60 and subsection (b) of section 4a-60a of the Connecticut General Statutes, the Contractor, for itself and its authorized signatory of this Contract, affirms that it understands the obligations of this section and that it will maintain a policy for the duration of the Contract to assure that the Contract will be performed in compliance with the nondiscrimination requirements of such sections. The Contractor and its authorized signatory of this Contract demonstrate their understanding of this obligation by either (A) having provided an affirmative response in the required online bid or response to a proposal question which asks if the contractor understands its obligations under such sections, or (B) signing this nondiscrimination affirmation on the following line:

YESenia RIVERA

6. **Freedom of Information.**

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

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

8. **Executive Orders.** This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland, promulgated August 4, 1999, concerning violence in the workplace, 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. If Executive Order 14 is applicable, it is deemed to be incorporated into and made a part of the Contract as if it had been fully set forth in it. At the Contractor's request, the Client Agency or DAS shall provide a copy of these orders to the Contractor.

9. **Campaign Contribution Restriction.** For all State contracts, defined in section 9-612 of the Connecticut General Statutes 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 represents that they have received 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 "SEEC Form 10: Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations."

10. **Summary of Ethics Laws.** Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes:

- (a) the State has provided to the Contractor the summary of State ethics laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes, which summary is incorporated by reference into and made a part of this Contract as if the summary had been fully set forth in this Contract;
- (b) the Contractor represents that the chief executive officer or authorized signatory of the Contract and all key employees of such officer or signatory have read and understood the summary and agree to comply with the provisions of state ethics law;
- (c) prior to entering into a contract with any subcontractors or consultants, the Contractor shall provide the summary to all subcontractors and consultants and each such contract entered into with a subcontractor or consultant on or after July 1, 2021, shall include a representation that each subcontractor or consultant and the key employees of such subcontractor or consultant have read and understood the summary and agree to comply with the provisions of state ethics law;
- (d) failure to include such representations in such contracts with subcontractors or consultants shall be cause for termination of the Contract; and
- (e) each contract with such contractor, subcontractor or consultant shall incorporate such summary by reference as a part of the contract terms.

11. **Large State Contract Representation for Contractor.** Pursuant to section 4-252 of the Connecticut General Statutes and Acting Governor Susan Bysiewicz's Executive Order 21-2, the Contractor, for itself and on behalf of all of its principals or key personnel who submitted a bid or proposal, represents:

- (a) That no gifts were made by:
- (1) the Contractor,
- (2) any principals and key personnel of the Contractor, who participate substantially in preparing bids, proposals or negotiating State contracts, or
- (3) any agent of the Contractor or principals and key personnel, who participates substantially in preparing bids, proposals or negotiating State contracts, to:
- i. any public official or State employee of the State agency or quasi- public agency soliciting bids or proposals for State contracts, who participates substantially in the preparation of bid solicitations or requests for proposals for State contracts or the negotiation or award of State contracts, or

- ii. any public official or State employee of any other State agency, who has supervisory or appointing authority over such State agency or quasi-public agency;
  - (b) That no such principals and key personnel of the Contractor, or agent of the Contractor or of such principals and key personnel, knows of any action by the Contractor to circumvent such prohibition on gifts by providing for any other principals and key personnel, official, employee or agent of the Contractor to provide a gift to any such public official or State employee; and
  - (c) That the Contractor submitted bids or proposals without fraud or collusion with any person.
12. **Large State Contract Representation for Official or Employee of State Agency.** Pursuant to section 4-252 of the Connecticut General Statutes and Acting Governor Susan Bysiewicz No. 21-2, promulgated July 1, 2021, the State agency official or employee represents that the selection of the most qualified or highest ranked person, firm or corporation was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or inappropriate influence from any person.
13. **Iran Energy Investment Certification.**
- (a) Pursuant to section 4-252a of the Connecticut General Statutes, the Contractor certifies that it has not made a direct investment of twenty million dollars or more in the energy sector of Iran on or after October 1, 2013, as described in Section 202 of the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010, and has not increased or renewed such investment on or after said date.
  - (b) If the Contractor makes a good faith effort to determine whether it has made an investment described in subsection (a) of this section shall not be subject to the penalties of false statement pursuant to section 4-252a of the Connecticut General Statutes. A "good faith effort" for purposes of this subsection includes a determination that the Contractor is not on the list of persons who engage in certain investment activities in Iran created by the Department of General Services of the State of California pursuant to Division 2, Chapter 2.7 of the California Public Contract Code. Nothing in this subsection shall be construed to impair the ability of the State agency or quasi-public agency to pursue a breach of contract action for any violation of the provisions of the Contract.
14. **Access to Data for State Auditors.** The Contractor shall provide to OPM access to any data, as defined in Conn. Gen Stat. Sec. 4e-1, concerning the Contract and OPM that are in the possession or control of the Contractor upon demand and shall provide the data to OPM in a format prescribed by the Client Agency and the State Auditors of Public Accounts at no additional cost.
15. **Consulting Agreements Representation.** *See Form 2.* Form 2 is attached to the Contract and incorporated herein.



## ACCEPTANCES AND APPROVALS

### 22OECCDC01NHV AMENDMENT 1

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

The Contractor IS NOT a Business Associate under the Health Insurance Portability and Accountability Act of 1996 as amended.

#### CONTRACTOR – NEW HAVEN BOARD OF EDUCATION

\_\_\_\_\_  
YESENIA RIVERA, *President*

\_\_\_\_/\_\_\_\_/\_\_\_\_  
Date

#### OFFICE OF EARLY CHILDHOOD

\_\_\_\_\_  
BETH BYE, *Commissioner*, OR DESIGNEE

\_\_\_\_/\_\_\_\_/\_\_\_\_  
Date

#### CONNECTICUT ATTORNEY GENERAL (APPROVED AS TO FORM)

\_\_\_\_\_  
Signature and Title

\_\_\_\_/\_\_\_\_/\_\_\_\_  
Date



# STATE OF CONNECTICUT

## CONSULTING AGREEMENT REPRESENTATION

*Representation to accompany a purchase of service contract with a value of \$50,000 or more than \$50,000 in a calendar or fiscal year, pursuant to Connecticut General Statutes §§ 4a-81(a) and 4a-81(b).*

### INSTRUCTIONS:

Complete all sections of the form. If the bidder or contractor has entered into more than one such consulting agreement, use a separate form for each agreement. Sign and date the form in the presence of a Commissioner of the Superior Court or Notary Public. **If the bidder or contractor has not entered into a consultant agreement, as defined by Connecticut General Statutes §4a-81(b)(1):** Mark the fields below with "Not Applicable (N/A)". Sign and date the form on the second page in the presence of a Commissioner of the Superior Court or Notary Public.

Submit completed form to the awarding State agency at the time of contract execution.

Pursuant to section 4a-81 of the Connecticut General Statutes, the Contractor represents that it has not entered into any consulting agreements in connection with this Contract, except for the agreements listed below. "Consulting agreement" means any written or oral agreement to retail the services, for a fee, of a consultant for the purposes of (A) providing counsel to a contractor, vendor, consultant or other entity seeking to conduct, or conducting, business with the State, (B) contacting, whether in writing or orally, any executive, judicial, or administrative office of the State, including any department, institution, bureau, board, commission, authority, official or employee for the purpose of solicitation, dispute resolution, introduction, requests for information, or (C) any other similar activity related to such contracts. "Consulting agreement" does not include any agreements entered into with a consultant who is registered under the provisions of Chapter 10 of the Connecticut General Statutes as of the date such contract is executed in accordance with the provisions of section 4a-81 of the Connecticut General Statutes.

### NOT APPLICABLE

Consultant's Name and Title

Name of Firm (if applicable)

Start Date

End Date

Cost

The basic terms of the consulting agreement are: NOT APPLICABLE

Description of Services Provided:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Sworn as true to the best of my knowledge and belief, subject to the penalties of false statement.

\_\_\_\_\_  
 Yesenia Rivera, President, New Haven Board of Education

Sworn and subscribed to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
 Commissioner of the Superior Court/Notary Public

\_\_\_\_\_  
 Commission Expiration Date

Contract Number 22OECCDC01NHV





Ned Lamont  
Governor  
Susan Bysiewicz  
Lt. Governor

# STATE OF CONNECTICUT

## OFFICE OF EARLY CHILDHOOD



Connecticut Office of  
Early Childhood

Beth Bye  
Commissioner

October 19, 2022

Yesenia Rivera  
President, New Haven Board of Education  
New Haven Board of Education  
54 Meadow Street  
New Haven, CT 06519

**CONTRACT #:** 22OECDC01NHV  
**CONTRACT PERIOD:** 06/27/2022 – 06/30/2024  
**CONTRACT AMOUNT:** \$3,611,290.62

Dear Ms. Rivera:

I am pleased to inform you that the above referenced contract has been fully executed and approved. Attached is a scanned copy for your files.

The OEC will process payments in accordance with the terms of the contract. Your receipt of payment is contingent upon the continued availability of funds and your agency's compliance with the terms of the contract.

Consistent with the terms of the contract, Contractors are required to complete a budget for the State Fiscal Years covered by the contract period, as well as a Final Expenditure Report. Details will follow at a later date.

Financial questions should be directed to Annette Carbone at [annette.carbone@ct.gov](mailto:annette.carbone@ct.gov).  
Programmatic questions should be directed to either Jennifer Jones at [jennifer.jones@ct.gov](mailto:jennifer.jones@ct.gov) or Rachel Tway-Grant at [rachel.tway-grant@ct.gov](mailto:rachel.tway-grant@ct.gov).

Sincerely,

Beth Bye  
Commissioner

cc: Contract file



Original Contract Number: 22OECDC01NHV  
Amendment Number: \_\_\_\_\_  
Maximum Contract Value: \$3,611,290.62  
Contractor Contact Person: Yesenia Rivera Tel: (475) 220-1000  
OEC Program: Kimberly Paluska Tel: (860) 500-4422

STATE OF CONNECTICUT  
PURCHASE OF SERVICE CONTRACT  
("POS", "Contract" and/or "contract")  
Effective July 1, 2018  
Revised October 19, 2018

The State of Connecticut OFFICE OF EARLY CHILDHOOD

Street: 450 COLUMBUS BOULEVARD, 2nd FLOOR

City: HARTFORD State: CT Zip: 06103

Tel#: (860) 500-4422 ("OEC," "Agency" and/or "Department"), hereby enters into a Contract with:

Contractor's Name: NEW HAVEN BOARD OF EDUCATION

Street: 54 MEADOW STREET

City: NEW HAVEN State: CT Zip: 06519

Tel#: (475) 220-1000

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

Contract Term/Effective Date	This Contract is in effect from 06/27/22 through 06/30/24.
Statutory Authority	The Agency is authorized to enter into this Contract pursuant to § 4-8 and 10-500 of the Connecticut General Statutes ("C.G.S.").
Set-Aside Status	Contractor <input type="checkbox"/> IS or <input checked="" type="checkbox"/> IS NOT a set aside Contractor pursuant to C.G.S. § 4a-60g.
Contract Amendment	The parties, by mutual agreement, may amend Part I of this contract only by means of a written instrument signed by the Agency and the Contractor, and, if required, approved by the Office of the Connecticut Attorney General. Part II of this Contract may be amended only in consultation with, and with the approval of, the Office of the Connecticut Attorney General and the State of Connecticut, Office of Policy and Management ("OPM") in accordance with the section in this Contract concerning Contract Amendments.

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

If to the Agency:	STATE OF CONNECTICUT OFFICE OF EARLY CHILDHOOD 450 COLUMBUS BOULEVARD, 2ND FLOOR HARTFORD, CT 06103  Attention: Kimberly Paluska	If to the Contractor:	NEW HAVEN BOARD OF EDUCATION 54 MEADOW STREET NEW HAVEN, CT 06519  Attention: Yesenia Rivera
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A party may modify the addressee or address for Notices by providing fourteen (14) days' prior written Notice to the other party. No formal amendment is required.



## TABLE OF CONTENTS

### Part I

#### Scope of Services, Contract Performance, Budget, Reports, Program-Specific and Agency-Specific Sections

### Part II

#### Terms and Conditions

#### A. Definitions

1. Bid
2. Breach
3. Cancellation
4. Claims
5. Client
6. Contract
7. Contractor Parties
8. Data
9. Expiration
10. Force Majeure
11. Confidential Information  
(formerly Personal Information)
12. Confidential Information  
Breach (formerly Personal Information  
Breach)
13. Records
14. Services
15. State
16. Termination

#### B. Client-Related Safeguards

1. Safeguarding Client Information
2. Reporting of Client Abuse or Neglect
3. Background Checks

#### C. Contractor Obligations

1. Cost Standards
2. Credits and Rights in Data
3. Organizational Information, Conflict of  
Interest, IRS Form 990
4. Federal Funds
5. Audit and Inspection of Plant, Places of  
Business and Records
6. Related Party Transactions
7. Suspension or Debarment
8. Liaison
9. Subcontracts
10. Independent Capacity of Contractor
11. Indemnification
12. Insurance
13. Sovereign Immunity
14. Choice of Law/Choice of Forum,  
Settlement of Disputes, Claims Against  
the State

#### C. Contractor Obligations, Continued

15. Compliance with Law and Policy,  
Facility Standards and Licensing
16. Representations and Warranties
17. Reports
18. Delinquent Reports
19. Protection of Confidential Information
20. Workforce Analysis
21. Litigation

#### D. Changes to the Contract, Termination, Cancellation and Expiration

1. Contract Amendment
2. Contractor Changes and Assignment
3. Breach
4. Non-enforcement Not to Constitute  
Waiver
5. Suspension
6. Ending the Contractual Relationship
7. Transition after Termination or  
Expiration of Contract

#### E. Statutory and Regulatory Compliance

1. Health Insurance Portability and  
Accountability Act of 1996
2. Americans with Disabilities Act
3. Utilization of Minority Business  
Enterprises
4. Priority Hiring
5. Non-Discrimination
6. Freedom of Information
7. Whistleblowing
8. Executive Orders
9. Campaign Contribution Restriction
10. Summary of Ethics Laws
11. Large State Contract Representation for  
Contractor
12. Large State Contract Representation for  
Official or Employee of State Agency
13. Iran Energy Investment Certification
14. Access to Data for State Auditors
15. Consulting Agreements Representation

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

The Contractor shall provide the following specific services for the Child Day Care (“CDC”) program and shall comply with the terms and conditions set forth in this Contract as required by the OEC, including but not limited to the requirements and measurements for scope of services, Contract performance, quality assurance, reports, terms of payment and budget. No sections in this Part I shall be interpreted to negate, supersede or contradict any section of Part II. In the event of any such inconsistency between Part I and Part II, the sections of Part II shall control.

### **A. DEFINITIONS**

1. In addition to the Definitions in Part II of this contract, the following terms are defined.

- a. **“Accredited” or “Accreditation”** means

- (1) For facilities that serve infants, toddlers or preschoolers, accredited or accreditation shall mean accredited by the National Association for the Education of Young Children (NAEYC) or designated by U.S. Department of Health and Human Services to be a Head Start grantee or delegate.
- (2) For facilities that serve children of school-age, accredited or accreditation shall mean:
  - (a) Recognition by an accreditation entity as may be approved by the OEC Commissioner, and
  - (b) Fulfilling any documentation requirements related to meeting these criteria included in CDC General Policies published by the OEC.

- b. **“Categories of child care”** are categories in which spaces are provided by the Contractor for children (also referred to as “Clients”) receiving services under this contract.

- (1) **Full-time infant and toddler:** Care for children from six (6) weeks to three (3) years of age that is provided for at least thirty (30) hours per week. Care for these spaces must be made available for ten hours per day for five (5) days per week.
- (2) **Full-time preschool:** Care for children from three (3) years of age to five (5) years of age who are not eligible to enroll in kindergarten that is provided for at least thirty (30) hours per week. Care for these spaces must be made available for ten (10) hours per day for five (5) days per week.
  - (a) This category of care does not include children, regardless of age, who attend elementary school for three (3) hours or more per day; or children who attend the program for a kindergarten experience without prior written approval from the OEC.
  - (b) Children thirty-two to thirty-six months of age may be enrolled as a three-year-old and can be deemed eligible for this service category upon mutual written consent from the child’s parent or guardian and the program director. Written authorization shall be maintained on file. The Contractor shall be reimbursed at the preschool rate for children utilizing this category of care.
  - (c) Children who are age-eligible for kindergarten can be deemed eligible by the OEC for this category upon submission and approval by the OEC of documentation that includes proof that the child has been in the program for one year, and written confirmation from the child’s Local Education Agency, Child Day Care Contract program and parent that the child is not ready for kindergarten.



- (3) **Wraparound for infants and toddlers:** Care for children from six (6) weeks to three (3) years of age that extends the hours, days and/or weeks of child care to children who are in an existing part-time program in order to allow care to be provided full-time. Wraparound care provides for sufficient hours to insure the provision of care for a minimum of ten hours per day for five (5) days per week.
  - (4) **Preschool wraparound:** Care for children from three (3) years of age to five (5) years of age who are not eligible to enroll in kindergarten, or have OEC approval to remain in a preschool space beyond kindergarten eligibility age, that extends the hours, days and/or weeks of child care to children who are in an existing part-time program in order to allow care to be provided full-time. Wraparound care provides for sufficient hours to insure the provision of care for a minimum of ten (10) hours per day for five (5) days per week.
  - (5) **Part-time school-age child care:** Care for children up to twelve (12) years of age who attend elementary school which extends the day beyond school hours, is available for at least three (3) hours per day five (5) days a week when school is in session.
  - (6) **Full-time school-age:** Care for children up to twelve (12) years of age who attend elementary school, made available for at least ten (10) hours per day, five (5) days per week and provided for at least thirty (30) hours per week when school is not in session. Days of full-time care do not need to be consecutive, as singular days of full-time care may be provided and combined to equal a full week of care.
  - (7) **Full-time Special Education:** Children in a Child Day Care space who also access special education services during the course of the day, shall be considered enrolled on a fulltime basis and the Contractor shall be eligible for reimbursement for the space under all of the following conditions:
    - (a) Prior permission is requested and obtained from the OEC;
    - (b) the family maintains program eligibility;
    - (c) the child attends the program consistently enough to benefit from the experience as determined by the Contractor's Program Director, in consultation with the OEC's CDC Program Manager;
    - (d) the Contractor identifies to the OEC on the Monthly Report that the child is receiving special education services; and
    - (e) all other policies of the program as set forth in this contract are adhered to.
- c. **"CHEFA" is the** Connecticut Health and Education Facilities Authority.
  - d. **"Child Care Assistance Program (CCAP)" or "Care 4 Kids (C4K)"** shall mean the State of Connecticut subsidy program of payments to support the child care needs of families.
  - e. **"Child Care Region" is defined by the following grouping of towns:**
    - (1) **"East"** shall include the towns of: Ashford, Bozrah, Brooklyn, Canterbury, Chaplin, Colchester, Columbia, Coventry, Eastford, East Lyme, Franklin, Griswold, Groton, Hampton, Killingly, Lebanon, Ledyard, Lisbon, Mansfield, Montville, New London, North Stonington, Norwich, Plainfield, Pomfret, Preston, Putnam, Salem, Scotland, Sprague, Sterling, Stonington, Thompson, Union, Voluntown, Waterford, Willington, Windham, and Woodstock;

- (2) **“North Central”** shall include the towns of: Andover, Avon, Berlin, Bloomfield, Bolton, Bristol, Burlington, Canton, East Granby, East Hartford, East Windsor, Ellington, Enfield, Farmington, Glastonbury, Granby, Hartford, Hebron, Manchester, Marlborough, New Britain, Newington, Plainville, Plymouth, Rocky Hill, Simsbury, Somers, Southington, South Windsor, Stafford, Suffield, Tolland, Vernon, West Hartford, Wethersfield, Windsor, and Windsor Locks;
  - (3) **“Northwest”** shall include the towns of: Barkhamsted, Beacon Falls, Bethel, Bethlehem, Bridgewater, Brookfield, Canaan, Cheshire, Colebrook, Cornwall, Danbury, Goshen, Hartland, Harwinton, Kent, Litchfield, Middlebury, Morris, Naugatuck, New Fairfield, New Hartford, New Milford, Newtown, Norfolk, North Canaan, Oxford, Prospect, Redding, Ridgefield, Roxbury, Salisbury, Sharon, Sherman, Southbury, Thomaston, Torrington, Warren, Washington, Waterbury, Watertown, Winchester, Wolcott, and Woodbury;
  - (4) **“South Central”** shall include the towns of: Ansonia, Bethany, Branford, Chester, Clinton, Cromwell, Deep River, Derby, Durham, East Haddam, East Hampton, East Haven, Essex, Guilford, Haddam, Hamden, Killingworth, Lyme, Madison, Meriden, Middlefield, Middletown, Milford, New Haven, North Branford, North Haven, Old Lyme, Old Saybrook, Orange, Portland, Seymour, Shelton, Wallingford, Westbrook, West Haven, and Woodbridge; and
  - (5) **“Southwest”** shall include the towns of: Bridgeport, Darien, Easton, Fairfield, Greenwich, Monroe, New Canaan, Norwalk, Stamford, Stratford, Trumbull, Weston, Westport, and Wilton.
- f. **“Child Day Care General Policies”** shall mean policies published by the OEC and posted on the OEC’s website ([www.ct.gov/oec](http://www.ct.gov/oec)) related to program operation for state-funded programs.
  - g. **“Cost of Care”** is the actual per-child cash cost (i.e. annual, monthly, and weekly) incurred by the child care provider or providers funded under this contract. The Contactor shall publish the actual cost of care. No family, regardless of income, shall be charged a fee that exceeds the provider’s established and published cost of care.
  - h. **“CSDE”** is the Connecticut State Department of Education.
  - i. **“DCF”** is the Connecticut Department of Children and Families.
  - j. **“Distance (Remote) Learning”** shall mean educational opportunities in which there is no in-person contact between teachers and children or families. These opportunities may involve a variety of strategies, including, but not limited to: virtual class meetings, the use of technology to connect with individual children and/or families, sharing of materials, coaching of families, and/or phone conferencing.
  - k. **“DPH”** is the Connecticut Department of Public Health.
  - l. **“DSS”** is the Connecticut Department of Social Services.
  - m. **“Early Learning and Development Standards”** shall mean Connecticut’s Early Learning and Development Standards which are statements of what children should know and be able to do from birth to age 5. These standards serve as a guide for considering the steps in children’s development and to plan ways to support children’s continued growth.
  - n. **“Enrolled”** shall mean the Contractor has performed or ensured that the following tasks have been performed:
    - (1) Determined a family to be eligible for the program services,
    - (2) Scheduled the child of the family to attend the program,



- (3) In the report period in which said child was scheduled to attend the program, the child attended at least one (1) calendar day, and
- (4) The child shall be deemed to remain enrolled so long as:
  - (a) Neither the Contractor nor the family terminate the child's enrollment, and
  - (b) The child attends at least one (1) calendar day in each report period, as long as this attendance frequency does not occur for more than two months per year, or
  - (c) The child does not attend at least one (1) calendar day during a reporting period but the Contractor holds the slot space for the child and the family pays the full cost of care for the space. In this case, such children cannot be included in the Monthly Report for that time period.
- o. **"Enrollee"** shall mean a child who has been enrolled into a child care space funded by this contract.
- p. **"Extenuating circumstances"** are situations including but not limited to public health/safety emergencies and/or other circumstance that may be deemed a qualifying hardship per request by the Contractor and with OEC review and written approval.
- q. **"Family"** shall mean:
  - (1) The parent(s), a parent's spouse and minor child(ren) who reside together. Additionally, a "parent" can be a person of majority age who has been legally granted "in loco parentis" status,
  - (2) A child, for whom Temporary Family Assistance (TFA) is paid and who lives with a relative who does not receive TFA for themselves. Such a child shall be considered a family of one, or
  - (3) A child in foster care authorized by DCF. Such a child shall be considered a family of one.
- r. **"Family Fee"** is the amount of an eligible family's cost of care owed to a program Contractor based on the OEC's published fee schedule for the category of care provided or based on the C4K-determined parent co-pay as the fee for services provided.
- s. **"FERPA"** is the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g
- t. **"Healthcare for Uninsured Kids and Youth (HUSKY A)"** is Connecticut's health insurance program, under the federal Medicaid program funded by Title XIX of the Social Security Act, for children under the age of nineteen (19) and their families that have a gross family income of less than one hundred eighty-five percent (185%) of the federal poverty guideline.
- u. **"Hybrid Learning"** models combine distance (remote) learning strategies with some in-person opportunities. These models may involve shorter sessions (e.g., half-day programs) or a limited number of days per week (Monday/Tuesday sessions for half of the children, and Wednesday/Thursday sessions for the other half).
- v. **"In Loco Parentis"** shall mean standing in the place or position of a parent with a parent's rights, duties and responsibilities, as determined by competent authority, for example, a relative, legal guardian or other person, with whom the child resides.
- w. **"Income (Excluded)"** shall mean:
  - (1) TFA cash assistance benefits;
  - (2) Child support payments made or received;
  - (3) Income paid by the U.S. Census Bureau to low-income temporary census workers;

- (4) The value of Food Stamp benefits;
- (5) The earnings of a family member who is under the age of eighteen (18) who is not the parent of a child for whom assistance is requested;
- (6) Earned income credit payment, including advanced payments;
- (7) Cash contributions from non-profit charitable agencies or organizations;
- (8) Interest and dividends totaling less than six hundred dollars (\$600.00) per calendar year;
- (9) Lump sum payments from unearned income sources totaling less than six hundred dollars (\$600.00) per calendar year;
- (10) Income tax refunds;
- (11) Special need payments issued by the Connecticut Care 4 Kids Program on behalf of a cash assistance recipient that are paid to a vendor;
- (12) Income from the domestic sponsor of a non-citizen family member;
- (13) Grants, loans and scholarships paid to students;
- (14) Cash gifts received on an irregular basis, the aggregate of which does not exceed twelve hundred dollars (\$1,200.00) per calendar year;
- (15) The value of goods and services given as in-kind income rather than cash payments;
- (16) Reimbursements for expenditures that do not represent a benefit or gain to the recipient;
- (17) Disaster assistance paid under the Disaster Relief Act of 1974, as amended, including the Individual and Family Grant (IFG) program, and comparable disaster assistance provided by states, local governments and private organizations, and any interest earned on funds from this source;
- (18) Payments made by the Connecticut Department of Labor to meet the cost of pursuing employment;
- (19) State or federal government rental subsidies;
- (20) Security deposits returned by a landlord to the family;
- (21) Payments made under means-tested energy assistance programs and utility subsidies;
- (22) Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- (23) Payments received for day care services from state or federal funds; and
- (24) Subsidized adoption payments received from the DCF as provided for under of the C.G.S. §17a-119.

x. **"Income (Included)"** shall mean:

- (1) **"Income from employment"** which is the gross earnings from salaries, wages and tips for the parent(s) and the parent's spouse, including commissions, overtime and bonuses not otherwise excluded in the Part I, Section A.1.o., of this contract, and/or
- (2) **"Income from self-employment"** which is the total gross profit from business enterprises, including farming, for the parent(s) and the parent's spouse, not otherwise excluded in the Part I, Section A.1.o., of this contract, remaining after the total cost of business expenses or cost of production of the income is deducted from the gross income. Personal expenses such as income tax payments, social security deductions, lunches, transportation, etc., are not herein classified as business expenses, and/or
- (3) **"Income from all other sources"** which is the gross income from whatever source derived, not otherwise excluded in the Part I, Section A.1.o., of this contract, for all family members, including, but not limited to, pensions annuities, dividends, interest (if more than fifty dollars (\$50.00) monthly), rental income, income from boarders, estate or trust income, royalties, Social Security or Supplemental Security Income, veterans' benefits, unemployment compensation, workers' compensation, alimony, foster care payments, cash gifts from friends and relatives, lottery winnings, and cash assistance from federal, state and/or municipally- funded assistance programs that are not otherwise expressly excluded as "income" by federal or state law.

y. **"Month"** is defined under this contract as one of twelve periods of the year, equivalent to 4.33 weeks for reimbursement purposes.



- z. **“Monthly Accredited Rate”** is the maximum amount the OEC will pay the Contractor, contracted infant/toddler, preschool, and school-age services provided in communities at accredited facilities.
- aa. **“Monthly Contract Rate”** is the amount per child care space the OEC agrees to provide the Contractor for each child enrolled in a space as listed in B.2.
- bb. **“Monthly Report”** is the document or mechanism, as determined by the OEC, by which Contractors provide required data on a schedule established and published by the OEC, including, but not limited to: enrollment/attendance; reimbursement earned; State Median Income category; and additional revenue earned such as Care 4 Kid subsidies and Family Fees.
- cc. **“Monthly Unaccredited Rate”** is the maximum amount the OEC will pay the Contractor, for contracted infant/toddler, preschool, and school-age services provided in communities, at unaccredited facilities.
- dd. **“NAEYC”** is the National Association for the Education of Young Children, the professional membership organization that administers NAEYC Accreditation for Programs Serving Young Children.
- ee. **“Operating Waiver”** offers Contractors the ability to revise hours of operation and categories of care upon OEC approval to respond to community and family needs, public health or safety emergency, or extenuating circumstance that make such request necessary.
- ff. **“Parent”** is the person or persons with whom a child resides, who is the child’s parent(s) by blood, marriage or adoption or who acts or is legally designated to act “in loco parentis”.
- gg. **“Policy”** shall mean the high-level overall plan of the Contractor or its governing body.
- hh. **“Report Period”** is any one of the twelve calendar periods as annually established and published by the OEC for the reporting of financial and enrollment information.
- ii. **“Residing with”** or **“reside together”** means living with, including taking meals together and sleeping in the same house.
- jj. **“Title I Community”** for purposes of this contract includes those communities as identified by CSDE under Section 1124a, “Concentration Grants to Local Education Agencies”, of the Federal Elementary and Secondary Education Act of 1965, and as may from time to time be revised.
- kk. **“Transitional Week of Care”** is the period June 27 – June 30, 2022. This contract will include reimbursement for a transitional week of child day care services provided during this period, which is between the end of the fifty-two week reporting period funded under the predecessor contract 20OECCDC01NHV and the beginning of OEC’s conversion from weekly to monthly reimbursement rates.
- ll. **“Week”** is defined under this contract as a seven calendar day period starting on Monday, inclusive.

## B. PROGRAM

### 1. Contractor Eligibility

- a. The Contractor warrants and agrees that the child care facility(ies) at which services under this contract are provided, shall be licensed to operate as a child care facility by the State of Connecticut and shall remain licensed throughout the term of contract. The Contractor acknowledges that should any facility have its child day care license revoked, funding for the spaces at this facility shall cease concurrent with the date of the revocation or other loss of license.

- b. The Contractor warrants and represents that it is either an elementary or secondary school, nursery school, preschool, day care center, group day care home, family day care home, family resource center, Head Start program, or local or regional board of education pursuant to C.G.S. § 17b-749a.
  - c. The Contractor warrants and agrees that any change in its status as an elementary or secondary school, nursery school, preschool, day care center, group day care home, family day care home, family resource center, Head Start program, or local or regional board of education shall result in the OEC's immediate termination of this contract.
  - d. The Contractor shall limit the provision of services identified in Part I, Section B.2. of this contract to families who reside in the State of Connecticut, except that families who reside in the states of Massachusetts, New York and Rhode Island, who work in Connecticut and receive a child care subsidy from their state of residence which may be used in Connecticut, may receive services under this contract.
  - e. **Professional Standards.** In rendering services under this contract, the Contractor shall conform to high professional standards of work and business ethic. The Contractor warrants that the services shall be performed: (1) in a professional manner; and (2) in accordance with generally and currently accepted principles and practices. During the term of this contract, the Contractor agrees to provide to OEC in a good and faithful manner, using its best efforts and in a manner that shall promote the interests of OEC, such services as OEC requests, provided in this contract.
2. **Categories of Care for service.** The Contractor shall provide up to the following number of child care spaces for the service "categories of care" identified at the following rates, corresponding to the Monthly Contract rates published by the OEC.

Transitional Week of Care

# Spaces	Categories of Care	Weekly Rate	# weeks
114	Spaces of full-time infant/toddler care	259.62	1
22	Spaces of wraparound infant/toddler care	90.87	1

SFY 2023

# Spaces	Categories of Care	Monthly Contract Rate	# months /year
114	Spaces of full-time infant/toddler care	1,125.00	12
22	Spaces of wraparound infant/toddler care	393.75	12

SFY 2024

# Spaces	Categories of Care	Monthly Contract Rate	# months /year
114	Spaces of full-time infant/toddler care	1,125.00	12
22	Spaces of wraparound infant/toddler care	393.75	12

3. **Operating Waiver.**

- a. Programs seeking an operating waiver must complete the "OEC State-funded Waiver Application for Operating Schedule Variance" and submit and receive approval prior to changes being implemented. If approved, programs must attest to the following:
  - (1) That they have surveyed their families for access to services, and have to confirm that changes requested will not limit families' access to the services requested;
  - (2) An assessment of needs will be conducted at least quarterly to specify:
    - (a) General factor(s) that necessitates an operating schedule variance;
    - (b) Action(s) taken by the program to limit the need for an operating schedule variance;



- (c) How families' needs for services assessed were assessed; and
  - (d) How change(s) in program's operating schedule will align with identified families' needs.
- b. With submission of operating waiver request, the program will provide a timeline and plan to return to the full operating schedule as required per this contract.
- c. Upon receipt of approval of the operating waiver request from OEC, changes in operating schedules must be reported to the OEC Licensing Division, in accordance with licensing regulations, and are reflected in the Early Childhood Professional Registry Profile for each site impacted.

**4. Prohibition of Slot Funding by Multiple Entities.**

- a. The Contractor warrants and agrees that the full-time child care spaces identified in Part I, Section B.2 of this contract shall not be purchased or otherwise funded by any other state or federal child care grantor contract, including but not limited to:
  - (1) The OEC's School Readiness, Head Start or the CSDE's Family Resource Center programs;
  - (2) Child care grantor contract programs of the DCF; or
  - (3) The Federal Head Start Program.
- b. The OEC Commissioner reserves the right, upon written request of the Contractor, in the OEC Commissioner's sole discretion to waive this provision.
  - (1) The request must be submitted in writing to the OEC and, at minimum must identify the child care grant or contract program that the Contractor proposes will purchase or otherwise fund the child care spaces identified in Part I, Section B.2. of this contract, the manner in which the combined funding will be used to support a comprehensive program model, and a full budget detailing the use of the combined funding sources.
  - (2) The OEC shall notify the Contractor, in writing within thirty (30) days of the receipt of the request of the disposition of the application. If the request is approved, the notification to the Contractor shall identify the amount, if any, of the purchase or other funded program's funds that shall be included in the Contractor's Monthly Contract Rate.

**5. Child Eligibility.**

- a. The Contractor warrants and agrees that it shall ensure that each enrolling parent shall provide a copy of the child's birth certificate. If the birth certificate is written in a language other than English, it must be accompanied by a translation to English by a certified translator or native speaker of the language.
- b. The Contractor agrees that it shall retain a copy of the child's birth certificate in the child's file.
- c. The Contractor agrees that the child's birth certificate shall be the determiner of the child's name and age for enrollment purposes.
- d. Any child for whom enrollment is requested that was born outside the State of Connecticut, the Contractor may enroll such a child under the following conditions:
  - (1) The parent is given up to eight (8) weeks to provide a copy of the child's birth certificate, and
  - (2) Failure by the parent to provide the birth certificate within the required time shall disqualify the child from further participation beyond the Friday following the date the birth certificate is required to be provided.

**6. Family Income Eligibility.**

- a. The Contractor warrants and agrees that family income eligibility shall be based on total family income, and that of the families enrolled at least eighty percent (80%) shall be earning income through employment.
- b. The Contractor agrees that it shall comply with the requirements for family participation in CDC programs as provided in C.G.S. § 19a-80e. The OEC shall deem a CDC program compliant with C.G.S. § 19a-80e if the CDC program has attained NAEYC Accreditation or Head Start approval.
- c. At least sixty percent (60%) of families enrolled must fall below 75% of the state's median income level. The OEC shall notify the Contractor, in writing, of the state's median income guidelines. Once enrolled in a Child Day Care funded space, families will remain eligible until their youngest child ages out. It is the program's responsibility to monitor this ratio and maintain documentation.
- d. The Contractor shall determine and document family income eligibility before enrollment and at least annually thereafter. The Contractor shall also require families to report changes in gross family income of fifty dollars (\$50.00) or more per week and shall be required to re-determine family income eligibility based on and following receipt of the reported changes.
- e. Gross income shall be calculated based on the best estimate of family income using a federal or state tax return as the primary source for verification. If a tax return is not available payroll statements or other documentation of income may be used according to the General Policies provided by the OEC.
- f. The Contractor agrees to the following as it relates to the verification of income:
  - (1) Families are responsible for verifying information pertinent to determining eligibility.
  - (2) Families shall be required to submit written documentation as the primary source of verification.
  - (3) When written documentation is absent or is questioned, the Contractor shall have the option of verifying information by contacting other disinterested third party sources.
  - (4) Families shall be required to report all changes in family circumstances bearing on eligibility within fifteen (15) days of the date of the change.

**7. Fees.** The Contractor warrants that it shall charge fees to enrollees as follows:

- a. For all service categories, the enrollee-based fee schedule, as published annually by the OEC, on its website ([www.ctoec.org](http://www.ctoec.org)) and via direct notice to Contractors via email, shall be used.
- b. For a family participating in CCAP, the weekly fee shall be the family fee determined by C4K for the enrollee.

**8. Fee Policy.**

- a. The Contractor warrants that it shall develop, publish and make available a written Fee Policy to parents seeking to participate or participating in its child care program. Said policy shall incorporate the actual cost of care and reference the OEC's most current fee schedule as available on the OEC website and e-mailed to providers as revised, and shall be based on the Contractor's own policy and the fees listed in Part I, Section B.7. of this contract, and at a minimum shall address:
  - (1) How fee is determined for the service(s) provided;
  - (2) How fees are assessed and collected;



- (3) How income, family size, DSS cash assistance status and any other eligibility factors are determined and verified;
    - (4) How confidentiality of family information is maintained and protected; and
    - (5) How a family hardship will be considered, including but not limited to, fee waiver, failure to pay, temporary reduction in assessed fees, timeline applied, and the process for appealing a fee determination. Programs are not obligated to waive or reduce fees for family hardship.
  - b. When the OEC publishes new fee schedules in its General Policies as posted on the OEC's website ([www.ct.gov/oec](http://www.ct.gov/oec)), changes to individual's fees charged will not become effective for thirty (30) days from the date families are notified or at the family's next income determination, whichever is greater.
9. **Vacancies.** The Contractor shall list its state-supported vacant, eligible and appropriate child care spaces with United Way of Connecticut, Inc., the state's resource and referral Contractor, to provide referral services to Connecticut families requiring child care. Vacancy information shall be provided within one week of the vacancy becoming available if not filled through the program's waiting list.
10. The OEC shall provide program General Policies and technical assistance, as the OEC deems appropriate, in order to enhance program operations and the Contractor shall implement such policies and assistance within a designated timeframe provided by the OEC.
11. The Contractor authorizes the OEC, throughout the term of this contract, to access any and all information pertaining to the facilities providing the services included in Part I, Section B.2. of this contract with the following entities, their successors and assigns, the
- a. NAEYC, Academy for Early Childhood Program Accreditation,
  - b. Head Start,
  - c. DPH, or
  - d. DCF.
12. The extent that FERPA provides greater privacy protections and obligations than provided for elsewhere in this contract, such FERPA privacy protections and obligations are hereby incorporated by reference into this contract as a compliance requirement of the Contractor.
13. The Contractor agrees that it shall ensure that both the curriculum and child assessments used by its facilities are aligned to the Connecticut Early Learning and Development Standards (CT ELDS).

## C. QUALITY ASSURANCE

1. **NAEYC Accreditation.** The ability to remain a CDC Contractor or subcontractor is contingent upon achieving NAEYC Accreditation within a timeline approved by the OEC.
- a. The Contractor warrants and agrees that each of its child care facilities, including those of subcontractor(s) identified in Part 1. Section H.1 of this contract, fits into one of the following categories:
    - (1) Is a facility of an entity currently:
      - (a) accredited by the NAEYC,

- (b) a Head Start on-site program review instrument or a successor instrument pursuant to federal regulations, or
- (c) meeting standards for School-Age programs annual monitoring

and fulfilling any documentation requirements related to meeting these criteria included in General Policies published by the OEC;

- (2) Is a facility of a new subcontractor, currently pursuing
  - (a) NAEYC Accreditation and on track to achieve accreditation within a three-year window from the date upon which they first became a subcontractor. Programs in this category must undergo an annual review by an OEC approved rater using an environment rating scale, completed at their own expense; or
  - (b) School-Age continuous improvement through annual reporting or such other school-age accreditation as the OEC Commissioner may approve; or
  - (c) Is a facility of an entity that has had their NAEYC Accreditation revoked, deferred, or denied and is receiving reduced reimbursement rates per the CDC published rate schedule, and is participating in the Alternative Interim Quality Assurance process as described in Part I, Section C.3.

- 2. **Loss of Accreditation.** If during the contract term the Contractor or subcontractor voluntarily surrenders accreditation for a facility or accreditation is lost for any reason, service provided at such facility shall be deducted by a percentage of the standard rate, in accordance with OEC General Policy B-05. It is the Contractor's responsibility to notify the OEC of loss or failure to achieve accreditation. NAEYC Accreditation or for the balance of the contract period, whichever comes first. NAEYC Accreditation is achieved by engaging in the steps of the process as identified by NAEYC and may not be secured by creating a Primary / Satellite site relationship between facilities.
- 3. **Alternative Interim Quality Assurance Process.** The Alternative Interim Quality Assurance process involves the following components, but may be adjusted based upon circumstances to require fewer or additional components as deemed necessary by OEC:
  - a. A monitoring process to be conducted by OEC staff, consistent with the OEC's established monitoring tool and protocol;
  - b. An environmental assessment using an early childhood environment rating scale conducted by an OEC- approved rater, at the program's expense;
  - c. A written plan, which may be submitted in stages, detailing the process(es) the facility will undertake to:
    - (1) Address the issue(s) surrounding the revocation decision;
    - (2) Address any concerns brought to light based upon the monitoring visit or the environment rating scale; and
    - (3) Achieve accreditation.
  - d. If, in the sole judgment of the OEC, a facility does not make sufficient progress toward achieving accreditation within a year of the loss of accreditation, or if the facility is negligent in addressing areas of concern, the OEC may reimburse at the unaccredited rate for the balance of the contract period or reduce the funding in the contract.



4. The Contractor warrants and agrees that the OEC shall have access to the child care facilities herein defined and to the Contractor's business offices, if different, during business hours, and further agrees to provide copies of any requested record that is material in the OEC judgment to this contract.

#### D. FUNDING AND PAYMENT PROVISIONS

1. Contractor may receive a combination of the following sources of income to reimburse expenses relating to care provided under this contract:
  - a. funding provided by OEC under this contract;
  - b. C4K subsidy funds;
  - c. family fees; or
  - d. per-child fee determined by the OEC Fee Schedule if there is no C4K subsidy.
2. **Performance Based Contracting.**
  - a. The Contractor herewith warrants and agrees that this contract is performance-based. The Contractor shall be paid a Monthly Contract Rate as set forth in the table in Part I, Section B.2, which is subject to the enrollment and attendance, for a minimum of one day in each report period, of eligible children in spaces contracted for as defined in Part I, Section B.2, of this contract, and as reported to the OEC.
  - b. The Contractor warrants and agrees that for purposes of determining payment and for purposes of audit, the Contractor may, in combination, earn from fees from parents, C4K payments, and the funds provided under this contract based on the spaces identified in Part I, Section B.2 of this contract.
3. The Contractor warrants and agrees that the OEC may reduce the amount of this contract. Said reduction shall be based on the number of children enrolled, by reporting period. The Contractor further warrants and agrees that the final amounts of this contract shall be determined by the number of children enrolled, in each reporting period, throughout the term of the contract, as established at time of audit and availability of funds.
4. The Contractor shall charge fees for services based on schedules established and published by the OEC except that if the services are used by the child of a family who is an eligible C4K recipient, the Contractor warrants and agrees that it shall accept the C4K-determined parent co-pay as the family fee for services provided.
5. Payments:
  - a. The Contractor shall receive a maximum payment of **\$3,611,290.62** for performance under this contract, distributed as follows:
    - (1) **A maximum of \$31,595.82 for Transitional Week of Care;**
    - (2) **A maximum of \$1,789,847.40 for State Fiscal Year 2023; and**
    - (3) **A maximum of \$1,789,847.40 for State Fiscal Year 2024.**
  - b. State funding allocated under this contract may not be carried forward from one State fiscal year to the following State fiscal year.
  - c. Any funds provided to the Contractor by OEC for a cost-of-living adjustment (COLA) must support the salaries and fringe benefits for all Contractor and/or subcontractor program staff who provide direct services. Such funding may not be used by the Contractor as a merit increase.

- d. The Contractor shall ensure its enrollment in Vendor Direct Deposit (ACH) through the Office of the State Comptroller.
- e. Payments shall be made provided the Contractor has complied with, and the OEC has received and accepted the reports required in Part I, Section F., of this contract. The amount of each scheduled payment shall be calculated by the OEC and may be adjusted based on Contractor-reported enrollment, as reviewed and accepted by the OEC. The OEC reserves the right to adjust payments based on the availability of funds.
- f. Payments shall be made on or after the following dates:

Payment Period	Payment Dates			
Transitional Week of Care	Upon contract execution			
SFY 2023	Upon contract execution	10/31/2022	1/31/2023	4/30/2023
SFY 2024	7/31/2023	10/31/2023	1/31/2024	4/30/2024

- g. The OEC shall not make payments to the Contractor if the Contractor does not comply with the conditions of this contract.
- h. **Reconciliations.**
  - (1) The OEC will perform financial reconciliations based upon space utilization by the Contractor, on a frequency basis to be determined by the OEC but not less than annually. This reconciliation shall be used to verify that funding paid to the Contractor was utilized for filled spaces as reported to the OEC by the Contractor on their Monthly Reports.
  - (2) **Overpayments.**
    - (a) If any reconciliation determines that the funds paid during the reconciliation period exceed the funds earned through reported utilization, the Contractor will be determined to be overpaid for the reconciled period.
    - (b) If it is determined that the Contractor is overpaid, the Contractor shall at the end of the contract period, or earlier if the contract is terminated, return to the OEC any unexpended funds within thirty (30) days; or such unexpended funds may, at the discretion of the OEC Commissioner, be applied as a reduction to future payments under this Contract, or future contracts if an amendment to the existing contract or a new contract has been executed for the same program.
- h. The Contractor agrees that the OEC may offset payments on this contract based on binding agreements with financial institutions or state agencies, including but not limited to CHEFA loans.
- 6. If more than ten percent (10%) of the spaces allocated within this contract are unutilized for a period of three (3) or more months, the OEC reserves the right to amend the contracted funding amount and reallocate funding for these spaces to another existing Child Day Care Contract based upon community needs.
- 7. **Space Flexibility.** Contractors may request in writing for OEC to approve the conversion, within the facility's licensed capacity, of preschool or school-age spaces to infant toddler spaces if the conversion involves not more than 10 spaces included in this contract.
  - a. Requests shall be made in writing to the OEC designated contact person at least 72 hours in advance of the proposed start date for the change in space(s), and such changes shall remain in effect for the remainder for the month.



- b. Requests meeting these criteria may not increase the total contract value.
- c. Approval of space changes meeting the above criteria will be provided in writing by the OEC.
- d. A conversion of 10 or fewer spaces during the contract period will not require a contract amendment.

## E. BUDGET PROVISIONS

1. **Budget.** The Contractor agrees to utilize OEC funds in accordance with the budget contained herein. The Contractor will provide the OEC with a copy of its budget(s) by **9/30/2022 for SFY 2023 and 8/31/2023 for SFY 2024.**

### Transitional Week of Care

# Spaces	Categories of Care	Weekly Contract Rate	# Weeks	Total for Week
114	Spaces of full-time infant/toddler care	259.62	1	29,596.68
22	Spaces of wraparound infant/toddler care	90.87	1	1,999.14
<b>Total Amount for Services</b>				<b>31,595.82</b>

### SFY 2023

# Spaces	Categories of Care	Monthly Contract Rate	# months/year	Total Yearly Amount
114	Spaces of full-time infant/toddler care	1,125.00	12	1,539,000.00
22	Spaces of wraparound infant/toddler care	393.75	12	103,950.00
<b>Total Amount for Services SFY 2023</b>				<b>1,642,950.00</b>
<b>COLA (Annualized)</b>				<b>58,769.56</b>
<b>COLA for staff salaries SFY 2023</b>				<b>88,127.84</b>
<b>TOTAL COLA</b>				<b>146,897.40</b>
<b>Total maximum SFY 2023 amount</b>				<b>1,789,847.40</b>

### SFY 2024

# Spaces	Categories of Care	Monthly Contract Rate	# months/year	Total Yearly Amount
114	Spaces of full-time infant/toddler care	1,125.00	12	1,539,000.00
22	Spaces of wraparound infant/toddler care	393.75	12	103,950.00
<b>Total Amount for Services SFY 2024</b>				<b>1,642,950.00</b>
<b>TOTAL COLA</b>				<b>146,897.40</b>
<b>Total maximum SFY 2024 amount</b>				<b>1,789,847.40</b>

## 2. Financial Reporting.

- a. The Contractor shall submit to the OEC a yearly cumulative End-of-Year/Final Financial Expenditure report due on or before July 31 of each State fiscal year.
- b. The Contractor will require subcontractors to provide fiscal reports that detail and justify expenditures. The Contractor will include subcontractor detailed expenditures and justification in reports sent to OEC.

3. **Annual Audit.** Notwithstanding the provisions of Part II of this Contract, no later than six months after the close of the Contractor's fiscal year, the Contractor shall provide to the OEC a complete annual financial audit acceptable to the OEC for all program funds, whether state awarded or not. Such audit shall include audit recommendations. The OEC reserves the right to receive a copy of any audit for related parties under common control. The Contractor shall maintain all fiscal records and accounts for three years after the end of the contract year, or until the State Auditors of Public Accounts complete an audit of the OEC for such fiscal year, whichever is later. The State Auditors of Public Accounts shall have access to such fiscal records and accounts during such period.

## F. PROGRAMMATIC REPORTING

1. The Contractor shall provide the OEC with reports and submit the following annual forms to the OEC:
  - a. **OEC-CDC Program Contact List.** Submitted annually and within 30 days of any change. This form will include a full listing of contact information for Contractors and subcontractors and all corresponding facilities at which spaces are provided. It is the responsibility of the Contractor to maintain the Program Contact list in a timely fashion as changes occur.
  - b. **OEC-CDC Program Space List.** Submitted at initial term of contract, and within 30 days of any change. The Contractor will provide a full listing of subcontractors and all corresponding facilities at which spaces are provided, if applicable, to include the following information for each facility at which spaces are provided: Connecticut Child Care Center license number, facility address, and the number of spaces by type at each facility. It is the responsibility of the Contractor to update the Program Space List as needed and submit to the CDC Program Managers.
  - c. **OEC-CDC Dates of Closure.**
    - (1) **Planned Closures.** Annually, the Contractor shall submit this form indicating dates of planned closure, not to exceed a combined total of four weeks per calendar year for programs operating for fifty-two (52) weeks a year. Contractors with an alternative schedule of fewer than fifty-two (52) weeks, and will submit a pro-rated list of dates of planned closure.
    - (2) **Unplanned Closures.** The Contractor shall submit this form when experiencing a closure due to unforeseen circumstances, including but not limited to weather related emergencies or public health emergencies, with estimates of return to operation as applicable, within seventy-two (72) hours of such closure
  - d. **OEC-CDC Community Collaboration.** Submitted at initial term of contract, the Contractor shall provide documentation that demonstrates that it collaborates with any local School Readiness Council or other Early Childhood Council serving a community or regional school district that is also served under this contract and shall describe how each grant/program listed interfaces with the Child Day Care Program. Programs that also provide services under School Readiness will be considered in compliance with this reporting requirement through the submission of the local School Readiness application.
  - e. **OEC-CDC Weeks of Full-Time Care.**
    - (1) If the Contractor proposes to provide full-time care for wraparound infant and toddler child care spaces, wraparound preschool spaces or full-time school-age child care spaces as identified in Part I, Section B.2 of this contract, annually it shall identify on the form and consistent with the spaces listed on the contract, the fourteen (14) weeks, from Sunday through Saturday, when full-time care will be provided. At the end of the fiscal year, the Contractor will attest, on a form provided by the OEC, that fourteen (14) weeks of full-time care for allocated space types were made available for children enrolled in each space type.



- (a) The number of weeks of full-time and part-time school-age or preschool wraparound care can be adjusted across the contracted allocation in response to community needs, particularly for weather-related, public health-related, or planned school closures. Singular days of full-time care may be provided and added together to equal a full week of care.
  - (b) Monthly reimbursement will be based upon 1/12th of the aggregate sum of full-time and part-time care provided annually (14 weeks for full-time and 38 weeks of part-time or wraparound care). Reconciliation will be conducted annually for any significant variances.
- (2) The allocation of additional weeks of full-time care is contingent upon OEC approval; documentation maintained by the program; and that reimbursement after adjustment does not exceed the total maximum contract value.
- f. **OEC-CDC Subcontractor Monitoring Plan for Contractors that have subcontracted services.**  
At the initial term of the contract, the Contractor shall submit a monitoring plan that indicates how the Contractor monitors subcontractors and approves subcontractors' compliance with this contract's requirements for Monthly Reports, NAEYC Accreditation requirements, child and family eligibility, and compliance with quality requirements. The Contractor shall provide evidence of annual subcontractor monitoring of the subcontractor for review by the OEC upon request.
- g. The Contractor agrees that it will maintain an annual written program improvement plan based on data collected from accreditation tools and reports and other data including but not limited to licensing inspections, environment rating scales, and/or Program Administration Scale. The written plan shall identify timelines, responsible parties, progress and goals. The Contractor shall provide evidence of program improvement planning for review by the OEC upon request.
- 2. **Report Submission Schedule.** The Contractor shall submit such reports in accordance with the following table:

Reporting Form	Due Date	Frequency
Program Contact List	As established and published by the OEC no later than December 30	Annual and within 30 days of any change
Program Space List		Once per term of contract and within 30 days of any change
Dates of Closure		Annually for planned closures and within 15 business days of an event for unplanned closures
Community Collaboration		Once per term of contract
Subcontractor Monitoring Plan		Once per term of contract
Program Improvement Plan		Once per term of contract
Planned Weeks of Full-Time Care		Annual
Weeks of Full-Time Care Final Attestation	July 31 <sup>st</sup> after completion of fiscal year	Annual

- 3. **Monthly Reports.**
  - a. The Contractor shall submit Monthly Reports as defined and determined by OEC according to the monthly submission schedule established and published by the OEC.

- b. For contractors with subcontractors, Contractor shall submit monthly report detail for all subcontractors and one combined Monthly Report serving as a composite of all detail.
  - c. The Contractor will maintain the records from all subcontractors which constitute the information submitted on the combined Monthly Report.
  - d. The Contractor shall provide the final Monthly Report within forty-five (45) days of the contract expiration date.
  - e. The Contractor agrees that failure to file Monthly Reports by the dates published by the OEC in addition to other remedies provided under this contract may result in penalty to the Contractor.
    - (1) The OEC may provide a reduction of the contracted amount earned for the reporting period at the rate of two percent (2%) for each seven (7) days the report is late up to a maximum reduction of ten percent (10%) of the reimbursement earned.
    - (2) The OEC and the Contractor mutually agree that the following procedure will be followed before a penalty is assessed:
      - (a) If prior to a due date the Contractor knows or anticipates that a report will be late, it must request an extension from the CDC Grants and Contracts Specialist or the OEC Designee.
      - (b) If the report is not submitted by the agreed upon revised due date, and no extension request is made by the Contractor, the penalty will be assessed, however, the Contractor may appeal the penalty, in writing to the OEC Designee, within one week of the notification of the assessed fee by providing reason(s) that the revised agreed upon due date was not met and asking for reconsideration.
      - (c) If the OEC Designee upholds the decision to assess the penalty, the Contractor may appeal that decision in writing to the OEC Commissioner who will be the final arbiter of the penalty assessment.
  - f. The OEC in its sole discretion, may waive the imposition of a penalty.
- 4. The Contractor agrees that it shall participate in the Connecticut Early Childhood Professional Registry and that it will meet and maintain Professional Registry requirements.
  - 5. The Contractor shall comply with the provisions of C.G.S. § 10-10a(g) that requires "...preschool programs which receive state or federal funding..." to participate in Public School Information System of the CSDE in a manner prescribed by the Commissioner of Education and agrees to participate in such data collection at times and in such a manner as is identified to it by the CSDE.
  - 6. The Contractor shall participate in the OEC's data collection system and will comply with the OEC data collection processes.
  - 7. Accreditation and Interim Quality Assurance
    - a. The Contractor shall report to the OEC its compliance with NAEYC Accreditation or Interim Quality Assurance Measures as follows:
      - (1) Submission of NAEYC annual reports and notice of acceptance from NAEYC within 30 days of receipt;
      - (2) NAEYC Accreditation/renewal/loss of accreditation decision reports within 72 hours of receipt;
      - (3) Notice and results of (announced or unannounced) verification visit within 72 hours of receipt.



- b. The Contractor shall provide evidence of results of annual environment rating scale assessment if the program does not meet the NAEYC Accreditation requirement.
8. The Contractor agrees to provide the above reports and additional reports as requested by the OEC, within timelines prescribed. The Contractor shall maintain all reporting documents and make them available to the OEC upon request.
9. **Ad hoc reports.** The Contractor further agrees to provide other reports concerning contracted services which the OEC may reasonably require. When such other reports are deemed by the OEC to be provided on a regular basis and are not explicitly stated herein, the OEC shall notify the Contractor in writing at least 30 calendar days prior to the initial submission date. This notification shall minimally include the required data, format, and date of submission for the report.

## G. AUTHORIZED REPRESENTATIVES

1. Both parties agree to have specifically named liaisons at all times. These representatives of the parties will be the first contacts regarding any questions and problems, which may arise during implementation and operation of the contract.
2. Wherever under this contract one party is required to give notice to the other, such notice shall be deemed given upon delivery. Notices shall be addressed as follows:
  - a. In case of notice to the Contractor:  
**Yesenia Rivera**  
**President, New Haven Board of Education**  
**New Haven Board of Education**  
**54 Meadow Street**  
**New Haven, CT 06519**  
**475-220-1000**  
**[yesenia.rivera@new-haven.k12.ct.us](mailto:yesenia.rivera@new-haven.k12.ct.us); [pamela.augustine-jefferson@new-haven.k12.ct.us](mailto:pamela.augustine-jefferson@new-haven.k12.ct.us)**
  - b. In case of notice to OEC: (OEC Designee):  
**Kimberly Paluska**  
**Division Director**  
**State of Connecticut Office of Early Childhood**  
**450 Columbus Boulevard, Suite 204**  
**Hartford, CT 06103**  
**(860) 500-4422**  
**Email: [kimberly.paluska@ct.gov](mailto:kimberly.paluska@ct.gov)**
3. Said notices shall become effective on the date of receipt or the date specified in the notice, whichever is later. Any change to notice information by the OEC or the Contractor shall be provided on the contact form provided by the OEC and not require a formal amendment.

## H. SUBCONTRACTS

1. In accordance with Part II, Subcontracts (Section C.9), the Contractor shall enter into a subcontract with the service providers whose identity, services to be rendered and costs shall be specified below:

Subcontracting Organization	Address	Description of Services	Performance Period	Payment Terms/ Total Value
LULAC Head Start, Inc.	250 Cedar Street, New Haven, CT 06519	Part I, Sections A, B, and C	Entire contract period	\$15,759.00 for Transitional Week of Care

				\$788,800.48 for SFY2023 \$788,800.48 for SFY2024
Morning Glory	49 Parmalee Avenue, New Haven, CT 06511	Part I, Sections A, B, and C	Entire contract period	\$4,153.92 for Transitional Week of Care \$235,321.79 for SFY2023 \$235,321.79 for SFY2024
Montessori School on Edgewood	230 Edgewood Avenue, New Haven, CT 06511	Part I, Sections A, B, and C	Entire contract period	\$5,192.40 for Transitional Week of Care \$294,152.23 for SFY2023 \$294,152.23 for SFY2024
Friends for Children Center	227 East Grand Avenue, New Haven, CT 06513	Part I, Sections A, B, and C	Entire contract period	\$6,490.50 for Transitional Week of Care \$367,622.90 for SFY2023 \$367,622.90 for SFY2024

2. **The Contractor may reallocate spaces across subcontractors to respond to changes in community need, with prior written approval by the OEC.**
3.
  - a. Absent compliance with subsection 1 above, in accordance with Part II, Subcontracts (Section C.9), if following the execution and approval of this contract, the Contractor has identified subcontractors for which it would like to retain, then the Contractor may propose the use of subcontractors not specified herein. The Contractor must request and obtain prior written approval from the OEC before finalizing any subcontract arrangement.
  - a. Each request to approve a subcontract arrangement must: (1) identify the name and business address of the proposed subcontract; (2) describe the services to be performed by the subcontractor; (3) identify the performance period, the payment terms and total value of the subcontract; the number of clients to be served in each category of care, Connecticut child day care license numbers, accreditation or approval system identification numbers, and contact information including phone number and e-mail address, process of notification of changes to subcontractor funding, process for contract resolution between the contractor and subcontractors; and (4) provide assurances to the OEC that the proposed subcontract contains the terms specified in subsection 4 below.
4. Each and any subcontract must contain terms that shall require the subcontractor to adhere to the requirements of Part I, Sections A, B, and C, and Part II, including but not limited to:
  - a. Client-Related Safeguards (Section B);
  - b. Contractor Obligations (Section C) – specifically: Federal Funds, Audit and Inspection of Plant, Places of Business and Records, Related Party Transactions, Suspension or Debarment, Independent Capacity of Contactor, Indemnification [of the State], Insurance, Compliance with Law and Policy, Facilities Standards and Licensing, Representations and Warranties, Protection of Confidential Information, Litigation, and Sovereign Immunity;



- c. Changes to The Contract, Termination, Cancellation and Expiration (Section D) – specifically: Contractor Changes and Assignment; and
  - d. Statutory and Regulatory Compliance (Section E).
- 5. The Contractor agrees to be responsible to the OEC for the performance of any subcontractor. The establishment of a subcontractor relationship shall not relieve the Contractor of any responsibility or liability under this contract. The Contractor shall bear full responsibility, without recourse to the OEC, for the subcontractor's performance.
  - 6. The Contractor shall retain the OEC's written approval and each subcontract in the contract file.
  - 7. Absent compliance with this section, no Contractor Party expense related to the use of a subcontractor shall be paid or reimbursed by the OEC unless the OEC, in its sole discretion, waives compliance with the requirements of this section. In order to be effective, any waiver of the requirements of this section must be in writing and signed by the OEC Commissioner or his/her designee pursuant to C.G.S. § 4-8. The OEC, in its discretion, may limit or condition any waiver of these requirements as it deems appropriate, including, for example, by limiting the dollar amount or any waiver, requiring proof that the subcontractor provided services under the contract, by requiring that any federal requirements under any federal grant program are satisfied, and/or requiring proof that the Contractor utilize the funds paid under the contract to promptly pay the subcontractor for services rendered.
  - 8. The Contractor will provide a copy of fully executed subcontractor agreements to the OEC within 10 calendar days of execution.
  - 9. The Contractor warrants and agrees that during the term of this contract, it shall annually monitor or cause to be monitored for compliance to the terms and conditions of this contract, any subcontractor herein identified. The Contractor further warrants and agrees that monitoring of said subcontractors will be performed based on the monitoring plan required in Section F.1.f submitted to and approved by the OEC which shall include review of NAEYC Accreditation status, review and approval of Monthly Reports, and review and approval of processes for determining family eligibility.

## **I. PROCEDURE FOR TERMINATION.**

- 1. **Termination by the OEC.** In addition to the sections in Part II of this Contract, upon delivery to the Contractor of a Notice of Termination specifying the nature of the termination and the date upon which such termination becomes effective the Contractor shall:
  - a. Stop work under the Contract on the date and to the extent specified in the Notice of Termination;
  - b. If the OEC so directs, terminate all subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination or assign to the OEC in the manner and to the extent directed by the OEC all of the right, title, and interest of the Contractor under the subcontracts not so terminated, in which case the OEC shall have the right, in its discretion, to settle or pay any and all claims arising out of the termination of such subcontracts;
  - c. Complete the performance of the work that has not been terminated by the Notice of Termination; and
  - d. Be entitled to payment for services agreed upon by the parties and rendered to the OEC's satisfaction through the effective date of termination.
- 2. **Reduction of services or Termination by the Contractor.** In the event that the Contractor terminates this contract, closes, reduces services or relocates any program funded under this Contract, or if for any reason, the fiduciary responsibility of the Contractor changes, or if the OEC does not offer funding for the

subsequent fiscal year, then pursuant to Part II, Section D. 7. of this Contract, the OEC and the Contractor shall negotiate and resolve the following issues:

- a. the timelines for closure of the program;
- b. closure of admissions and the transfer of clients remaining in the program at the time of closure;
- c. the amount of any final payments due the Contractor or refunds due the OEC;
- d. the transfer or storage of all program records pursuant to the requirements of the FERPA
- e. the disposition of property and equipment in which the OEC has a financial interest pursuant to the requirements of CHEFA and any applicable State Bonding Commission Fund Award liens and obligations;
- f. notification to clients of the closure, their options for transfer to other programs and the Contractor's obligations to facilitate such transfer; and
- g. any other issues pertinent to the specific situation causing the reduction or termination of services.

## J. MISCELLANEOUS PROVISIONS

1. **Contractor Procurements:** The Contractor agrees to conduct procurements of equipment, services and/or supplies necessary to discharge its duties under this contract using competitive bids. The Contractor must retain evidence of its procurements in its files for audit purposes. Contractors may obtain procurement guidance from the OEC, as required, through their named Liaison.
2. **Equipment.**
  - a. Equipment is defined as machinery, tools, furniture, vehicles, and other personal property with a normal useful life of more than one year and a value of \$5,000.00 or more, or as revised by the Comptroller of the State of Connecticut. Equipment purchased, in whole or in part, with funds provided by the OEC under this contract shall be considered the property of the OEC. Equipment shall be considered purchased from Contractor funds if the program has other sources of income equal to or greater than the equipment purchase price. Such purchases shall be considered to be the property of the Contractor. Equipment to be purchased for the program with OEC funds must be identified and the cost itemized in the approved budget in Part I of this contract or in a budget revision form.
  - b. The following provisions apply to equipment purchases made in full or in part with OEC funds:
    - (1) The Contractor shall obtain the prior approval of the OEC either through the contract application budget or a budget revision. Each piece of equipment to be purchased and its costs must be clearly itemized.
    - (2) The Contractor shall obtain three competitive bids with the purchase to be made from the lowest qualified bidder.
    - (3) The Contractor shall maintain an inventory of all equipment, computer-related hardware and software, and items valued over \$ 1,000.00 purchased with funds provided under this contract, and present such inventory to the OEC upon request.
    - (4) As part of its annual audit statement, the Contractor shall submit verification by the auditor of the continued possession of all equipment purchased with OEC funds.



- (5) Any item of equipment purchased with OEC funds shall not be discarded or sold or removed from the inventory without the prior written approval of the OEC.
- (6) If OEC funding to the Contractor is terminated or not renewed, the OEC shall determine the manner of the disposition of all equipment purchased in full or in part with OEC funds by:
  - (a) permitting the Contractor to retain and use the property;
  - (b) allowing the Contractor to sell the equipment and return the proceeds to the OEC, minus an agreed upon amount to compensate for the costs of selling the property; or
  - (c) returning the equipment to the OEC.
- 3. **Severability:** If any term or provision of the contract or its application to any person, entity or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder of the contract or the application of such term or provision shall not be affected as to persons, entities or circumstances other than those as to whom or to which it is held to be invalid or unenforceable. Each remaining term and provision of the contract shall be valid and enforced to the fullest extent permitted by law.

**PART II. TERMS AND CONDITIONS.** The Contractor shall comply with the following terms and conditions.

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

1. **"Bid"** shall mean a bid submitted in response to a solicitation.
2. **"Breach"** shall mean a party's failure to perform some contracted-for or agreed-upon act, or his failure to comply with a duty imposed by law which is owed to another or to society.
3. **"Cancellation"** shall mean an end to the Contract affected pursuant to a right which the Contract creates due to a Breach.
4. **"Claims"** shall mean all actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.
5. **"Client"** shall mean a recipient of the Contractor's Services.
6. **"Contract"** shall mean this agreement, as of its effective date, between the Contractor and the State for Services.
7. **"Contractor Parties"** shall mean a Contractor's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract (e.g. subcontractor) and the Contractor intends for such other person or entity to perform under the Contract in any capacity. For the purpose of this Contract, vendors of support services, not otherwise known as human service providers or educators, shall not be considered subcontractors, e.g. lawn care, unless such activity is considered part of a training, vocational or educational program.
8. **"Data"** shall mean all results, technical information and materials developed and/or obtained in the performance of the Services hereunder, including but not limited to all reports, survey and evaluation tools, surveys and evaluations, plans, charts, recordings (video and/or sound), pictures, curricula, electronically prepared presentations, public awareness or prevention campaign materials, drawings, analyses, graphic representations, computer programs and printouts, notes and memoranda, and documents, whether finished or unfinished, which result from or are prepared in connection with the Services performed hereunder.
9. **"Expiration"** shall mean an end to the Contract due to the completion in full of the mutual performances of the parties or due to the Contract's term being completed.
10. **"Force Majeure"** shall mean events that materially affect the Services or the time schedule within which to perform and are outside the control of the party asserting that such an event has occurred, including, but not limited to, labor troubles unrelated to the Contractor, failure of or inadequate permanent power, unavoidable casualties, fire not caused by the Contractor, extraordinary weather conditions, disasters, riots, acts of God, insurrection or war.
11. **"Confidential Information" (formerly "Personal Information")** shall mean any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual including, but not limited to, such individual's name, date of birth, mother's maiden name, motor vehicle operator's license number, Social Security number, employee identification number, employer or taxpayer identification number, alien registration number, government passport number, health insurance identification number, demand deposit account number, savings account number, credit card number, debit card number or unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation. Without limiting the foregoing, Confidential Information shall also include any information regarding clients that the Agency 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.
12. **"Confidential Information Breach" (formerly "Personal Information Breach")** shall mean, generally, an instance where an unauthorized person or entity accesses Confidential Information in any manner, including but not limited to the following occurrences: (1) any Confidential Information that is not encrypted or protected is misplaced, lost, stolen or in any way compromised; (2) one or more third parties have had access to or taken control or possession of any Confidential Information that is not encrypted or protected without prior written authorization from the State; (3) the unauthorized acquisition of encrypted or protected Confidential Information together with the confidential process or key that is capable of compromising the integrity of the Confidential Information; or (4) if there is a substantial risk of identity theft or fraud to the client, the Agency, the Contractor, or the State.
13. **"Records"** shall mean all working papers and such other information and materials as may have been accumulated and/or produced by the Contractor in performing the Contract, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries, correspondence, and program and individual service records and other evidence of its accounting and billing procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature incurred in the performance of this Contract, kept or stored in any form.
14. **"Services"** shall mean the performance of Services as stated in Part I of this Contract.
15. **"State"** shall mean the State of Connecticut, including any agency, office, department, board, council, commission, institution or other executive branch agency.
16. **"Termination"** shall mean an end to the Contract affected pursuant to a right which the Contract creates, other than for a Breach.

**B. Client-Related Safeguards.**

1. **Safeguarding Client Information.** The Agency and the Contractor shall safeguard the use, publication and disclosure of information on all applicants for and all Clients who receive Services under this Contract with all applicable federal and state law concerning confidentiality and as may be further provided under the Contract.
2. **Reporting of Client Abuse or Neglect.** The Contractor shall comply with all reporting requirements relative to Client abuse and neglect, including but not limited to requirements as specified in C.G.S. §§ 17a-101 through 17a-101q, inclusive, 17a-102a, 17a-103 through 17a-103e, inclusive, 19a-216, 46b-120 (related to children); C.G.S. § 46a-11b (relative to persons with intellectual disabilities or any individual who receives services from the State); and C.G.S. § 17a-412 (relative to elderly persons).
3. **Background Checks.** The State may require that the Contractor and Contractor Parties undergo criminal background checks as provided for in the State of Connecticut Department of Emergency Services and Public Protection Administration and Operations Manual or such other State document as governs procedures for background checks. The Contractor and Contractor Parties shall cooperate fully as necessary or reasonably requested with the State and its agents in connection with such background checks.

**C. Contractor Obligations.**

1. **Cost Standards.** The Contractor and funding state Agency shall comply with the Cost Standards issued by OPM, as may be amended from time to time. The Cost Standards are published by OPM the Web at [http://www.ct.gov/opm/cwp/view.asp?a=2981&q=382994&opmNav\\_GID=1806](http://www.ct.gov/opm/cwp/view.asp?a=2981&q=382994&opmNav_GID=1806).
2. **Credits and Rights in Data.** Unless expressly waived in writing by the Agency, all Records and publications intended for public distribution during or resulting from the performances of this Contract shall include a statement acknowledging the financial support of the State and the Agency and, where applicable, the federal government. All such publications shall be released in conformance with applicable federal and state law and all regulations regarding confidentiality. Any liability arising from such a release by the Contractor shall be the sole responsibility of the Contractor and the Contractor shall indemnify and hold harmless the Agency, unless the Agency or its agents co-authored said publication and



said release is done with the prior written approval of the Agency Head. All publications shall contain the following statement: "This publication does not express the views of the Office of Early Childhood or the State of Connecticut. The views and opinions expressed are those of the authors." Neither the Contractor nor any of its agents shall copyright Data and information obtained under this Contract, unless expressly previously authorized in writing by the Agency. The Agency shall have the right to publish, duplicate, use and disclose all such Data in any manner, and may authorize others to do so. The Agency may copyright any Data without prior Notice to the Contractor. The Contractor does not assume any responsibility for the use, publication or disclosure solely by the Agency of such Data.

3. **Organizational Information, Conflict of Interest, IRS Form 990.** During the term of this Contract and for the one hundred eighty (180) days following its date of Termination and/or Cancellation, the Contractor shall upon the Agency's request provide copies of the following documents within ten (10) days after receipt of the request:

- (a) its most recent IRS Form 990 submitted to the Internal Revenue Service, and
- (b) its most recent Annual Report filed with the Connecticut Secretary of the State's Office or such other information that the Agency deems appropriate with respect to the organization and affiliation of the Contractor and related entities.

**THIS PROVISION SHALL CONTINUE TO BE BINDING UPON THE CONTRACTOR FOR ONE HUNDRED AND EIGHTY (180) DAYS FOLLOWING THE TERMINATION OR CANCELLATION OF THE CONTRACT.**

4. **Federal Funds.**

- (a) The Contractor shall comply with requirements relating to the receipt or use of federal funds. The Agency shall specify all such requirements in Part I of this Contract.
- (b) The Contractor acknowledges that the Agency has established a policy, as mandated by section 6032 of the Deficit Reduction Act ("DRA") of 2005, P.L. 109-171, that provides detailed information about the Federal False Claims Act, 31 U.S.C. §§ 3729-3733, and other laws supporting the detection and prevention of fraud and abuse.
  - (1) Contractor acknowledges that it has received a copy of said policy and shall comply with its terms, as amended, and with all applicable state and federal laws, regulations and rules. Contractor shall provide said policy to subcontractors and shall require compliance with the terms of the policy. Failure to abide by the terms of the policy, as determined by the Agency, shall constitute a Breach of this Contract and may result in cancellation or termination of this Contract.
  - (2) This section applies if, under this Contract, the Contractor or Contractor Parties furnishes, or otherwise authorizes the furnishing of health care items or services, performs billing or coding functions, or is involved in monitoring of health care provided by the Agency.
- (c) Contractor represents that it is not excluded, debarred, suspended or otherwise ineligible to participate in federal health care programs.
- (d) Contractor shall not, for purposes of performing the Contract with the Agency, knowingly employ or contract with, with or without compensation:
  - (1) any individual or entity listed by a federal agency as excluded, debarred, suspended or otherwise ineligible to participate in federal health care programs; or
  - (2) any person or entity who is excluded from contracting with the State of Connecticut or the federal government (as reflected in the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, Department of Health and Human Services, Office of Inspector General ("HHS/OIG") Excluded Parties list and the Office of Foreign Assets Control ("OFAC") list of Specially Designated Nationals and Blocked Persons List). Contractor shall immediately notify the Agency should it become subject to an investigation or inquiry involving items or services reimbursable under a federal health care program or be listed as ineligible for participation in or to perform Services in connection with such program. The Agency may cancel or terminate this Contract immediately if at any point the Contractor, subcontractor or any of their employees are sanctioned, suspended, excluded from or otherwise become ineligible to participate in federal health care programs.

5. **Audit and Inspection of Plant, Places of Business and Records.**

- (a) The State and its agents, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents, or where applicable, federal agencies, may, at reasonable hours, inspect and examine all of the parts of the Contractor's and Contractor's Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Contract. The Contractor shall comply with federal and state single audit standards as applicable.
- (b) The Contractor shall maintain, and shall require each of the Contractor Parties to maintain accurate and complete Records. The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State and its agents.
- (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) The Contractor will pay for all costs and expenses of any audit and inspection which reveals information that, in the sole determination of the State, is sufficient to constitute a breach by the Contractor under this Contract. The Contractor will remit full payment to the State for such audit or inspection no later than thirty (30) days after receiving an invoice from the State.
- (e) The Contractor shall keep and preserve or cause to be kept and preserved all of its and Contractor Parties' Records until three (3) years after the latter of:
  - (1) final payment under this Contract,
  - (2) the expiration or earlier termination of this Contract, 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 and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
- (g) The Contractor must incorporate this entire Section verbatim into any contract or other agreement it enters into with any Contractor Party.

6. **Related Party Transactions.** The Contractor shall report all related party transactions, as defined in this section, to the Agency on an annual basis in the appropriate fiscal report as specified in Part I of this Contract. "Related party" means a person or organization related through marriage, ability to control, ownership, family or business association. Past exercise of influence or control need not be shown, only the potential or ability to directly or indirectly exercise influence or control. "Related party transactions" between a Contractor or Contractor Party and a related party include, but are not limited to:

- (a) Real estate sales or leases;
- (b) Leases for equipment, vehicles or household furnishings;
- (c) Mortgages, loans and working capital loans; and



- (d) Contracts for management, consultant and professional services as well as for materials, supplies and other services purchased by the Contractor or Contractor Party.
7. **Suspension or Debarment.** In addition to the representations and requirements set forth in Section C.4:
- (a) The Contractor certifies for itself and Contractor Parties involved in the administration of federal or state funds that they:
- (1) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any governmental agency (federal, state or local);
  - (2) within a three year period preceding the effective date of this Contract, have not been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; for violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
  - (3) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the above offenses; and
  - (4) have not within a three year period preceding the effective date of this Contract had one or more public transactions terminated for cause or fault.
- (b) Any change in the above status shall be immediately reported to the Agency.
8. **Liaison.** Each Party shall designate a liaison to facilitate a cooperative working relationship between the Contractor and the Agency in the performance and administration of this Contract.
9. **Subcontracts.** Each Contractor Party's identity, services to be rendered and costs shall be detailed in Part I of this Contract. Absent compliance with this requirement, no Contractor Party may be used or expense paid under this Contract unless expressly otherwise provided in Part I of this Contract. No Contractor Party shall acquire any direct right of payment from the Agency by virtue of this section or any other section of this Contract. The use of Contractor Parties shall not relieve the Contractor of any responsibility or liability under this Contract. The Contractor shall make available copies of all subcontracts to the Agency upon request.
10. **Independent Capacity of Contractor.** The Contractor and Contractor Parties shall act in an independent capacity and not as officers or employees of the state of Connecticut or of the Agency.
11. **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) Claims arising, directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively, the "Acts") of the Contractor or Contractor Parties; and
  - (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts of 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
    - (i) the confidentiality of any part of or all of the Contractor's bid or proposal, and
    - (ii) Records, intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, or Goods furnished or used in the performance of the Contract. For purposes of this provision, "Goods" means all things which are movable at the time that the Contract is effective and which includes, without limiting this definition, supplies, materials and equipment.
- (b) 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.
- (c) 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 merely contributed in part to the Acts giving rise to the Claims. The Contractor shall not be responsible for indemnifying or holding the State harmless from any liability solely from the negligence of the State or any other person or entity acting under the direct control or supervision of the State.
- (d) The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any provisions survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall cause the State to be named as an additional insured on the policy and shall provide
- (1) a certificate of insurance,
  - (2) the declaration page and
  - (3) the additional insured endorsement to the policy to the Client Agency all in an electronic format acceptable to the Client Agency prior to the Effective Date of the Contract evidencing that the State is an additional insured. The Contractor shall not begin performance until the delivery of these three (3) documents to the Client Agency. Contractor shall provide an annual electronic update of the three (3) documents to the Client Agency on or before each anniversary of the Effective Date during the Contract term. State shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that State is contributorily negligent.
- (e) This section shall survive the Termination of the Contract and shall not be limited by reason of any insurance coverage.
12. **Insurance.** Before commencing performance, the Agency may require the Contractor to obtain and maintain specified insurance coverage. In the absence of specific Agency requirements, the Contractor shall obtain and maintain the following insurance coverage at its own cost and expense for the duration of the Contract:
- (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 services to be performed under this Contract 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 vendor/contractor does not own an automobile, but one is used in the execution of this Contract, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of this Contract then automobile coverage is not required.
  - (c) Professional Liability. \$1,000,000 limit of liability, if applicable; and/or
  - (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.



13. **Sovereign Immunity.** The Contractor and Contractor Parties acknowledge and agree that nothing in the Contract, or the solicitation leading up to the Contract, shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Contract. To the extent that this Section conflicts with any other Section, this Section shall govern.
14. **Choice of Law/Choice of Forum, Settlement of Disputes, Claims Against the State.**
- (a) The Contract shall be deemed to have been made in the City of Hartford, State of Connecticut. Both Parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.
  - (b) Any dispute concerning the interpretation or application of this Contract shall be decided by the Agency Head or his/her designee whose decision shall be final, subject to any rights the Contractor may have pursuant to state law. In appealing a dispute to the Agency Head pursuant to this section, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final resolution of a dispute, the Contractor and the Agency shall proceed diligently with the performance of the Contract.
  - (c) The Contractor agrees that the sole and exclusive means for the presentation of any claim against the State arising from this Contract shall be in accordance with Title 4, Chapter 53 of the Connecticut General Statutes (Claims Against the State) and the Contractor further agrees not to initiate legal proceedings, except as authorized by that Chapter, in any state or federal court in addition to or in lieu of said Chapter 53 proceedings.
15. **Compliance with Law and Policy, Facility Standards and Licensing.** Contractor shall comply with all:
- (a) Pertinent local, state and federal laws and regulations as well as Agency policies and procedures applicable to contractor's programs as specified in this Contract. The Agency shall notify the Contractor of any applicable new or revised laws, regulations, policies or procedures which the Agency has responsibility to promulgate or enforce; and
  - (b) Applicable local, state and federal licensing, zoning, building, health, fire and safety regulations or ordinances, as well as standards and criteria of pertinent state and federal authorities. Unless otherwise provided by law, the Contractor is not relieved of compliance while formally contesting the authority to require such standards, regulations, statutes, ordinance or criteria.
16. **Representations and Warranties.** Contractor shall:
- (a) Perform fully under the Contract;
  - (b) Pay for and/or secure all permits, licenses and fees and give all required or appropriate notices with respect to the provision of Services as described in Part I of this Contract; and
  - (c) Adhere to all contractual sections ensuring the confidentiality of all Records that the Contractor has access to and are exempt from disclosure under the State's Freedom of Information Act or other applicable law.
17. **Reports.** The Contractor shall provide the Agency with such statistical, financial and programmatic information necessary to monitor and evaluate compliance with the Contract. All requests for such information shall comply with all applicable state and federal confidentiality laws. The Contractor shall provide the Agency with such reports as the Agency requests as required by this Contract.
18. **Delinquent Reports.** The Contractor shall submit required reports by the designated due dates as identified in this Contract. After notice to the Contractor and an opportunity for a meeting with an Agency representative, the Agency reserves the right to withhold payments for services performed under this Contract if the Agency has not received acceptable progress reports, expenditure reports, refunds, and/or audits as required by this Contract or previous contracts for similar or equivalent services the Contractor has entered into with the Agency. This section shall survive any Termination of the Contract or the Expiration of its term.
19. **Protection of Confidential Information.**
- (a) Contractor and Contractor Parties, at their own expense, have a duty to and shall protect from a Confidential Information Breach any and all Confidential Information which they come to possess or control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with current industry standards.
  - (b) Each Contractor or Contractor Party shall develop, implement and maintain a comprehensive data – security program for the protection of Confidential Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for protection of Confidential Information, and information of a similar character, as set forth in all applicable federal and state law and written policy of the Agency 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.
  - (c) The Contractor and Contractor Parties shall notify the Agency and the Connecticut Office of the Attorney General as soon as practical, but no later than twenty-four (24) hours, after they become aware of or suspect that any Confidential Information which Contractor or Contractor Parties have come to possess or control has been subject to a Confidential Information Breach. If a Confidential Information Breach has occurred, the Contractor shall, within three (3) business days after the notification, present a credit monitoring and protection plan to the Commissioner of Administrative Services, the Agency 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 C.G.S. § 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 Agency, any State of Connecticut entity or any affected individuals.
  - (d) The Contractor shall incorporate the requirements of this Section in all subcontracts requiring each Contractor Party to safeguard Confidential Information in the same manner as provided for in this Section.



- (c) Nothing in this Section shall supersede in any manner Contractor's or Contractor Party's obligations pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") or the provisions of this Contract concerning the obligations of the Contractor as a Business Associate of Covered Entity.
20. **Workforce Analysis.** The Contractor shall provide a workforce Analysis Affirmative Action report related to employment practices and procedures.
21. **Litigation.**
- (a) The Contractor shall require that all Contractor Parties, as appropriate, disclose to the Contractor, to the best of their knowledge, any Claims involving the Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under the Contract, no later than ten (10) days after becoming aware or after they should have become aware of any such Claims. Disclosure shall be in writing.
- (b) The Contractor shall provide written Notice to the Agency of any final decision by any tribunal or state or federal agency or court which is adverse to the Contractor or which results in a settlement, compromise or claim or agreement of any kind for any action or proceeding brought against the Contractor or its employee or agent under the Americans with Disabilities Act of 1990 as revised or amended from time to time, Executive Orders Nos. 3 & 17 of Governor Thomas J. Meskill and any other requirements of federal or state law concerning equal employment opportunities or nondiscriminatory practices.

**D. Changes to the Contract, Termination, Cancellation and Expiration.**

**1. Contract Amendment.**

- (a) Should the parties execute an amendment to this Contract on or before its expiration date that extends the term of this Contract, then the term of this Contract shall be extended until an amendment is approved as to form by the Connecticut Office of the Attorney General provided the extension provided hereunder shall not exceed a period of 90 days. Upon approval of the amendment by the Connecticut Office of the Attorney General the term of the contract shall be in accord with the provisions of the approved amendment.
- (b) No amendment to or modification or other alteration of this Contract shall be valid or binding upon the parties unless made in writing, signed by the parties and, if applicable, approved by the Office of the Connecticut Attorney General.
- (c) The Agency may amend this Contract to reduce the contracted amount of compensation if:
- (1) the total amount budgeted by the State for the operation of the Agency or Services provided under the program is reduced or made unavailable in any way; or
- (2) federal funding reduction results in reallocation of funds within the Agency.
- (d) If the Agency decides to reduce the compensation, the Agency shall send written Notice to the Contractor. Within twenty (20) days of the Contractor's receipt of the Notice, the Contractor and the Agency shall negotiate the implementation of the reduction of compensation unless the parties mutually agree that such negotiations would be futile. If the parties fail to negotiate an implementation schedule, then the Agency may terminate the Contract effective no earlier than sixty (60) days from the date that the Contractor receives written notification of Termination and the date that work under this Contract shall cease.

**2. Contractor Changes and Assignment.**

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

**3. Breach.**

- (a) If either party Breaches this Contract in any respect, the non-breaching party shall provide written notice of the Breach to the breaching party and afford the breaching party an opportunity to cure within ten (10) days from the date that the breaching party receives the notice. In the case of a Contractor Breach, the Agency may modify the ten (10) day cure period in the notice of Breach. The right to cure period shall be extended if the non-breaching party is satisfied that the breaching party is making a good faith effort to cure, but the nature of the Breach is such that it cannot be cured within the right to cure period. The Notice may include an effective Contract cancellation date if the Breach is not cured by the stated date and, unless otherwise modified by the non-breaching party in writing prior to the cancellation date, no further action shall be required of any party to effect the cancellation as of the stated date. If the notice does not set forth an effective Contract cancellation date, then the non-breaching party may cancel the Contract by giving the breaching party no less than twenty four (24) hours' prior written Notice after the expiration of the cure period.
- (b) If the Agency believes that the Contractor has not performed according to the Contract, the Agency may:
- (1) withhold payment in whole or in part pending resolution of the performance issue, provided that the Agency notifies the Contractor in writing prior to the date that the payment would have been due in accordance with the budget;
- (2) temporarily discontinue all or part of the Services to be provided under the Contract;



- (3) permanently discontinue part of the Services to be provided under the Contract;
- (4) assign appropriate State personnel to provide contracted for Services to assure continued performance under the Contract until such time as the contractual Breach has been corrected to the satisfaction of the Agency;
- (5) require that contract funding be used to enter into a subcontract with a person or persons designated by the Agency in order to bring the program into contractual compliance;
- (6) take such other actions of any nature whatsoever as may be deemed appropriate for the best interests of the State or the program(s) provided under this Contract or both; or
- (7) any combination of the above actions.
- (c) The Contractor shall return all unexpended funds to the Agency no later than thirty (30) days after the Contractor receives a demand from the Agency.
- (d) In addition to the rights and remedies granted to the Agency by this Contract, the Agency shall have all other rights and remedies granted to it by law in the event of Breach of or default by the Contractor under the terms of this Contract.
- (e) The action of the Agency shall be considered final. If at any step in this process the Contractor fails to comply with the procedure and, as applicable, the mutually agreed plan of correction, the Agency may proceed with Breach remedies as listed under this section.
- 4. **Non-enforcement Not to Constitute Waiver.** No waiver of any Breach of the Contract shall be interpreted or deemed to be a waiver of any other or subsequent Breach. All remedies afforded in the Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided in the Contract or at law or in equity. A party's failure to insist on strict performance of any section of the Contract shall only be deemed to be a waiver of rights and remedies concerning that specific instance of performance and shall not be deemed to be a waiver of any subsequent rights, remedies or Breach.
- 5. **Suspension.** If the Agency determines in its sole discretion that the health and welfare of the Clients or public safety is being adversely affected, the Agency may immediately suspend in whole or in part the Contract without prior notice and take any action that it deems to be necessary or appropriate for the benefit of the Clients. The Agency shall notify the Contractor of the specific reasons for taking such action in writing within five (5) days of immediate suspension. Within five (5) days of receipt of this notice, the Contractor may request in writing a meeting with the Agency Head or designee. Any such meeting shall be held within five (5) days of the written request, or such later time as is mutually agreeable to the parties. At the meeting, the Contractor shall be given an opportunity to present information on why the Agency's actions should be reversed or modified. Within five (5) days of such meeting, the Agency shall notify the Contractor in writing of his/her decision upholding, reversing or modifying the action of the Agency head or designee. This action of the Agency head or designee shall be considered final.
- 6. **Ending the Contractual Relationship.**
  - (a) This Contract shall remain in full force and effect for the duration of its entire term or until such time as it is terminated earlier by either party or cancelled. Either party may terminate this contract by providing at least sixty (60) days prior written notice pursuant to the Notice requirements of this Contract.
  - (b) The Agency may immediately terminate the Contract in whole or in part whenever the Agency makes a determination that such termination is in the best interest of the State. Notwithstanding Section D.2, the Agency may immediately terminate or cancel this Contract in the event that the Contractor or any subcontractors becomes financially unstable to the point of threatening its ability to conduct the services required under this Contract, ceases to conduct business in the normal course, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or its assets.
  - (c) The Agency shall notify the Contractor in writing of Termination pursuant to subsection (b) above, which shall specify the effective date of termination and the extent to which the Contractor must complete or immediately cease performance. Such Notice of Termination shall be sent in accordance with the Notice provision contained on page 1 of this Contract. Upon receiving the Notice from the Agency, the Contractor shall discontinue all Services affected in accordance with the Notice, undertake all reasonable and necessary efforts to mitigate any losses or damages, and deliver to the Agency all Records as defined in Section A.14, unless otherwise instructed by the Agency in writing, and take all actions that are necessary or appropriate, or that the Agency may reasonably direct, for the protection of Clients and preservation of any and all property. Such Records are deemed to be the property of the Agency and the Contractor shall deliver them to the Agency no later than thirty (30) days after the Termination of the Contract or fifteen (15) days after the Contractor receives a written request from the Agency for the specified records whichever is less. The Contractor shall deliver those Records that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to ASCII or .TXT.
  - (d) The Agency may terminate the Contract at any time without prior notice when the funding for the Contract is no longer available.
  - (e) The Contractor shall deliver to the Agency any deposits, prior payment, advance payment or down payment if the Contract is terminated by either party or cancelled within thirty (30) days after receiving demand from the Agency. The Contractor shall return to the Agency any funds not expended in accordance with the terms and conditions of the Contract and, if the Contractor fails to do so upon demand, the Agency may recoup said funds from any future payments owing under this Contract or any other contract between the State and the Contractor. Allowable costs, as detailed in audit findings, incurred until the date of termination or cancellation for operation or transition of program(s) under this Contract shall not be subject to recoupment.
- 7. **Transition after Termination or Expiration of Contract.**
  - (a) If this Contract is terminated for any reason, cancelled or it expires in accordance with its term, the Contractor shall do and perform all things which the Agency determines to be necessary or appropriate to assist in the orderly transfer of Clients served under this Contract and shall assist in the orderly cessation of Services it performs under this Contract. In order to complete such transfer and wind down the performance, and only to the extent necessary or appropriate, if such activities are expected to take place beyond the stated end of the Contract term then the Contract shall be deemed to have been automatically extended by the mutual consent of the parties prior to its expiration without any affirmative act of either party, including executing an amendment to the Contract to extend the term, but only until the transfer and winding down are complete.
  - (b) If this Contract is terminated, cancelled or not renewed, the Contractor shall return to the Agency any equipment, deposits or down payments made or purchased with start-up funds or other funds specifically designated for such purpose under this Contract in accordance with the written instructions from the Agency in accordance with the Notice provision of this Contract. Written instructions shall include, but not be limited to, a description of the equipment to be returned, where the equipment shall be returned to and who is responsible to pay for the delivery/shipping costs. Unless the Agency specifies a shorter time frame in the letter of instructions, the Contractor shall affect the returns to the Agency no later than sixty (60) days from the date that the Contractor receives Notice.

**E. Statutory and Regulatory Compliance.**

**Note:** The following provisions in this section do not apply if the Contractor is a municipality, political subdivision of the State, or a quasi-public agency: 5(i), 9, 11, 12, and 13.

- 1. **Health Insurance Portability and Accountability Act of 1996.** Notwithstanding the language in Part II, Section E.1(c) of this Contract, the language below is not applicable if the Agency is not a Covered Entity for the purposes of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). However, if the Agency becomes a Covered Entity in the future and if the Contractor accordingly



becomes a Business Associate, Contractor will comply with the terms of this Section upon written notice from the Agency that the Agency is a Covered Entity.

The Contractor ☐ IS or ☒ IS NOT CURRENTLY a Business Associate under the Health Insurance Portability and Accountability Act of 1996, as amended.

- (a) If the Contractor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as noted in this Contract, the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
- (c) The State of Connecticut Agency named on page 1 of this Contract ("Agency") is a "covered entity" as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor is a "business associate" of the Agency, as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor and the Agency agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), (Pub. L. 111-5, §§ 13400 to 13423), and more specifically with the Privacy and Security Rules at 45 C.F.R. parts 160 and 164, subparts A, C, and E (collectively referred to herein as the "HIPAA Standards").
- (f) Definitions
  - (1) "Breach" shall have the same meaning as the term is defined in 45 C.F.R. § 164.402 and shall also include a use or disclosure of PHI that violates the HIPAA Standards.
  - (2) "Business Associate" shall mean the Contractor.
  - (3) "Covered Entity" shall mean the Agency of the State of Connecticut named on page 1 of this Contract.
  - (4) "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.
  - (5) "Electronic Health Record" shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. § 17921(5)).
  - (6) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
  - (7) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
  - (7) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, and includes electronic PHI, as defined in 45 C.F.R. § 160.103, limited to information created, maintained, transmitted or received by the Business Associate from or on behalf of the Covered Entity or from another Business Associate of the Covered Entity.
  - (8) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
  - (9) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
  - (10) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
  - (11) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.
  - (12) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.
  - (13) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subpart A and C.
  - (15) "Unsecured protected health information" shall have the same meaning as the term as defined in 45 C.F.R. § 164.402.
- (g) Obligations and Activities of Business Associates.
  - (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
  - (2) Business Associate agrees to use and maintain appropriate safeguards and comply with applicable HIPAA Standards with respect to all PHI and to prevent use or disclosure of PHI other than as provided for in this Section of the Contract and in accordance with HIPAA Standards.
  - (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
  - (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
  - (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
  - (6) Business Associate agrees in accordance with 45 C.F.R. § 502(e)(1)(ii) and § 164.308(d)(2), if applicable, to ensure that any subcontractor that creates, receives, maintains or transmits PHI on behalf of the Business Associate agrees to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such information.
  - (7) Business Associate agrees to provide access (including inspection, obtaining a copy or both), at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524. Business Associate shall not charge any fees greater than the lesser of the amount charged by the Covered Entity to an Individual for such records; the amount permitted by state law; or the Business Associate's actual cost of postage, labor and supplies for complying with the request.
  - (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner designated by the Covered Entity.
  - (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created, maintained, transmitted or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary investigating or determining Covered Entity's compliance with the HIPAA Standards.



- (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (11) Business Associate agrees to provide to Covered Entity, in a time and manner designated by the Covered Entity, information collected in accordance with subsection (g)(10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an Individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. §§ 164.504(e), 164.308, 164.310, 164.312, and 164.316.
- (14) In the event that an Individual requests that the Business Associate
  - (A) restrict disclosures of PHI;
  - (B) provide an accounting of disclosures of the Individual's PHI;
  - (C) provide a copy of the Individual's PHI in an electronic health record; or
  - (D) amend PHI in the Individual's designated record setthe Business Associate agrees to notify the Covered Entity, in writing, within five (5) business days of the request.
- (15) Business Associate agrees that it shall not, and shall ensure that its subcontractors do not, directly or indirectly, receive any remuneration in exchange for PHI of an Individual without
  - (A) the written approval of the Covered Entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract; and
  - (B) the valid authorization of the Individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act, (42 U.S.C. § 17935(d)(2)) and in any accompanying regulations.
- (16) Obligations in the Event of a Breach.
  - (A) The Business Associate agrees that, following the discovery by the Business Associate or by a subcontractor of the Business Associate of any use or disclosure not provided for by this section of the Contract, any breach of unsecured PHI, or any Security Incident, it shall notify the Covered Entity of such breach in accordance with Subpart D of Part 164 of Title 45 of the Code of Federal Regulations and this Section of the Contract.
  - (B) Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than thirty (30) days after the breach is discovered by the Business Associate, or a subcontractor of the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to 45 C.F.R. § 164.412. A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate or its subcontractor. The notification shall include the identification and last known address, phone number and email address of each Individual (or the next of kin of the Individual if the Individual is deceased) whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
  - (C) The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
    - 1. A description of what happened, including the date of the breach; the date of the discovery of the breach; the unauthorized person, if known, who used the PHI or to whom it was disclosed; and whether the PHI was actually acquired or viewed.
    - 1. A description of the types of unsecured PHI that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
    - 2. The steps the Business Associate recommends that Individual(s) take to protect themselves from potential harm resulting from the breach.
    - 3. A detailed description of what the Business Associate is doing or has done to investigate the breach, to mitigate losses, and to protect against any further breaches.
    - 4. Whether a law enforcement official has advised the Business Associate, either verbally or in writing, that he or she has determined that notification or notice to Individuals or the posting required under 45 C.F.R. § 164.412 would impede a criminal investigation or cause damage to national security and; if so, include contact information for said official.
  - (D) If directed by the Covered Entity, the Business Associate agrees to conduct a risk assessment using at least the information in subparagraphs 1 to 4 inclusive, of (g)(16)(C) of this Section and determine whether, in its opinion, there is a low probability that the PHI has been compromised. Such recommendation shall be transmitted to the Covered Entity within twenty (20) business days of the Business Associate's notification to the Covered Entity.
  - (E) If the Covered Entity determines that there has been a breach, as defined in 45 C.F.R. § 164.402, by the Business Associate or a subcontractor of the Business Associate, if directed by the Covered Entity, shall provide all notifications required by 45 C.F.R. §§ 164.404 and 164.406.
  - (F) Business Associate agrees to provide appropriate staffing and have established procedures to ensure that Individuals informed of a breach have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site and a postal address. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.
  - (G) Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.



- (h) Permitted Uses and Disclosure by Business Associate.
- (1) General Use and Disclosure Provisions. Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the HIPAA Standards if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
- (2) Specific Use and Disclosure Provisions
- (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
- (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide data aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
- (i) Obligations of Covered Entity.
- (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual(s) to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- (j) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Standards if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.
- (k) Term and Termination.
- (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with provision (g)(10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
- (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
- (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
- (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
- (3) Effect of Termination.
- (A) Except as provided in (k)(2) of this Section of the Contract, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with section (g)(10) of this Section of the Contract to the Covered Entity within ten (10) business days of the notice of termination. This section shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
- (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.
- (l) Miscellaneous Sections.
- (1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
- (2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- (3) Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.
- (4) Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
- (5) Construction. This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
- (6) Disclaimer. Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized



- use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the sections of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
- (7) **Indemnification.** The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, and the HIPAA Standards.
2. **Americans with Disabilities Act.** The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 (<http://www.ada.gov/>) as amended from time to time ("ADA") to the extent applicable, during the term of the Contract. The Agency may cancel or terminate this Contract if the Contractor fails to comply with the ADA. The Contractor represents that it is familiar with the terms of this Act and that it is in compliance with the law. The Contractor warrants that it shall hold the State harmless from any liability which may be imposed upon the state as a result of any failure of the Contractor to be in compliance with this ADA. As applicable, the Contractor shall comply with § 504 of the Federal Rehabilitation Act of 1973, as amended from time to time, 29 U.S.C. § 794 (Supp. 1993), regarding access to programs and facilities by people with disabilities.
3. **Utilization of Minority Business Enterprises.** The Contractor shall perform under this Contract in accordance with 45 C.F.R. Part 74; and, as applicable, C.G.S. §§ 4a-60 to 4a-60a and 4a-60g to carry out this policy in the award of any subcontracts.
4. **Priority Hiring.** Subject to the Contractor's exclusive right to determine the qualifications for all employment positions, the Contractor shall give priority to hiring welfare recipients who are subject to time-limited welfare and must find employment. The Contractor and the Agency shall work cooperatively to determine the number and types of positions to which this Section shall apply.
5. **Non-discrimination.**
- (a) For purposes of this Section, the following terms are defined as follows:
- "Commission" means the Commission on Human Rights and Opportunities;
  - "Contract" and "contract" include any extension or modification of the Contract or contract;
  - "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
  - "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.
  - "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
  - "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
  - "marital status" means being single, married as recognized by the State of Connecticut, widowed, separated or divorced;
  - "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;
  - "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 C.G.S. § 32-9n; and
  - "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:
- a political subdivision of the state, including, but not limited to, a municipality, unless the contract is a municipal public works contract or quasi-public agency project contract,
  - any other state, including but not limited to any federally recognized Indian tribal governments, as defined in C.G.S. § 1-267,
  - the federal government,
  - a foreign government, or
  - an agency of a subdivision, state or government described in the immediately preceding enumerated items (1), (2), (3), or (4).
- (b)
- 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, status as a veteran, intellectual disability, 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 ensure 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, status as a veteran, intellectual disability, 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;
  - 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 C.G.S. §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to C.G.S. §§ 46a-56, 46a-68e, 46a-68f and 46a-86; 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 C.G.S. § 46a-56. If the contract is a public works contract, municipal public works contract or contract for a quasi-public agency project, the Contractor agrees and warrants that he or she will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works or quasi-public agency 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 in every subcontract entered into in order to fulfill any obligation of a municipal public works contract for a quasi-public agency project, 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 C.G.S. § 46a-56, as amended; 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 regarding a State contract, 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 C.G.S. § 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 C.G.S. § 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 C.G.S. § 46a-56 as amended; 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 regarding a State contract, 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.
  - (i) **Nondiscrimination Certification.** Pursuant to subsection (c) of section 4a-60 and subsection (b) of section 4a-60a of the Connecticut General Statutes, the Contractor, for itself and its authorized signatory of this Contract, affirms that it understands the obligations of this section and that it will maintain a policy for the duration of the Contract to assure that the Contract will be performed in compliance with the nondiscrimination requirements of such sections. The Contractor and its authorized signatory of this Contract demonstrate their understanding of this obligation by either (A) having provided an affirmative response in the required online bid or response to a proposal question which asks if the contractor understands its obligations under such sections, or (B) signing this nondiscrimination affirmation on the following line:  
**Yesenia Rivera**
6. **Freedom of Information.**
- (a) Contractor acknowledges that the Agency must comply with the Freedom of Information Act, C.G.S. §§ 1-200 *et seq.* ("FOIA") which requires the disclosure of documents in the possession of the State upon request of any citizen, unless the content of the document falls within certain categories of exemption, as defined by C.G.S. § 1-210(b).
  - (b) Governmental Function. In accordance with C.G.S. § 1-218, if the amount of this Contract exceeds two million five hundred thousand dollars (\$2,500,000), and the Contractor is a "person" performing a "governmental function", as those terms are defined in C.G.S. § 1-200(4) and (11), the Agency is entitled to receive a copy of the Records and files related to the Contractor's performance of the governmental function, which may be disclosed by the Agency pursuant to the FOIA.
7. **Whistleblowing.** This Contract is subject to C.G.S. § 4-61dd if the amount of this Contract is a "large state contract" as that term is defined in C.G.S. § 4-61dd(h). In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the Contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars (\$5,000) for each



- offense, up to a maximum of twenty per cent (20%) of the value of this Contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state Contractor, as defined in the statute, shall post a notice of the relevant sections of the statute relating to large state Contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.
8. **Executive Orders.** This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland, promulgated August 4, 1999, concerning violence in the workplace, 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. If Executive Order 14 is applicable, it is deemed to be incorporated into and made a part of the Contract as if it had been fully set forth in it. At the Contractor's request, the Client Agency or DAS shall provide a copy of these orders to the Contractor.
9. **Campaign Contribution Restriction.** For all State contracts, defined in section 9-612 of the Connecticut General Statutes 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 represents that they have received 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 "SEEC Form 10: Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations."
10. **Summary of Ethics Laws.** Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes:
- (a) the State has provided to the Contractor the summary of State ethics laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes, which summary is incorporated by reference into and made a part of this Contract as if the summary had been fully set forth in this Contract;
  - (b) the Contractor represents that the chief executive officer or authorized signatory of the Contract and all key employees of such officer or signatory have read and understood the summary and agree to comply with the provisions of state ethics law;
  - (c) prior to entering into a contract with any subcontractors or consultants, the Contractor shall provide the summary to all subcontractors and consultants and each such contract entered into with a subcontractor or consultant on or after July 1, 2021, shall include a representation that each subcontractor or consultant and the key employees of such subcontractor or consultant have read and understood the summary and agree to comply with the provisions of state ethics law;
  - (d) failure to include such representations in such contracts with subcontractors or consultants shall be cause for termination of the Contract; and
  - (e) each contract with such contractor, subcontractor or consultant shall incorporate such summary by reference as a part of the contract terms.
11. **Large State Contract Representation for Contractor.** Pursuant to section 4-252 of the Connecticut General Statutes and Acting Governor Susan Bysiewicz's Executive Order 21-2, the Contractor, for itself and on behalf of all of its principals or key personnel who submitted a bid or proposal, represents:
- (a) That no gifts were made by:
    - (1) the Contractor,
    - (2) any principals and key personnel of the Contractor, who participate substantially in preparing bids, proposals or negotiating State contracts, or
    - (3) any agent of the Contractor or principals and key personnel, who participates substantially in preparing bids, proposals or negotiating State contracts, to:
      - i. any public official or State employee of the State agency or quasi- public agency soliciting bids or proposals for State contracts, who participates substantially in the preparation of bid solicitations or requests for proposals for State contracts or the negotiation or award of State contracts, or
      - ii. any public official or State employee of any other State agency, who has supervisory or appointing authority over such State agency or quasi-public agency;
  - (b) That no such principals and key personnel of the Contractor, or agent of the Contractor or of such principals and key personnel, knows of any action by the Contractor to circumvent such prohibition on gifts by providing for any other principals and key personnel, official, employee or agent of the Contractor to provide a gift to any such public official or State employee; and
  - (c) That the Contractor submitted bids or proposals without fraud or collusion with any person.
12. **Large State Contract Representation for Official or Employee of State Agency.** Pursuant to section 4-252 of the Connecticut General Statutes and Acting Governor Susan Bysiewicz No. 21-2, promulgated July 1, 2021, the State agency official or employee represents that the selection of the most qualified or highest ranked person, firm or corporation was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or inappropriate influence from any person.
13. **Iran Energy Investment Certification.**
- (a) Pursuant to section 4-252a of the Connecticut General Statutes, the Contractor certifies that it has not made a direct investment of twenty million dollars or more in the energy sector of Iran on or after October 1, 2013, as described in Section 202 of the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010, and has not increased or renewed such investment on or after said date.
  - (b) If the Contractor makes a good faith effort to determine whether it has made an investment described in subsection (a) of this section shall not be subject to the penalties of false statement pursuant to section 4-252a of the Connecticut General Statutes. A "good faith effort" for purposes of this subsection includes a determination that the Contractor is not on the list of persons who engage in certain investment activities in Iran created by the Department of General Services of the State of California pursuant to Division 2, Chapter 2.7 of the California Public Contract Code. Nothing in this subsection shall be construed to impair the ability of the State agency or quasi-public agency to pursue a breach of contract action for any violation of the provisions of the Contract.
14. **Access to Data for State Auditors.** The Contractor shall provide to OPM access to any data, as defined in Conn. Gen Stat. Sec. 4e-1, concerning the Contract and OPM that are in the possession or control of the Contractor upon demand and shall provide the data to OPM in a format prescribed by the Client Agency and the State Auditors of Public Accounts at no additional cost.
15. **Consulting Agreements Representation.** See Form 2. Form 2 is attached to the Contract and incorporated herein.

**SIGNATURE PAGE TO FOLLOW**  
**(Space intentionally left blank)**

**SIGNATURES AND APPROVALS**

**22OECCDC01NHV**

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

**CONTRACTOR - NEW HAVEN BOARD OF EDUCATION**

  
\_\_\_\_\_  
YESENIA RIVERA, *President, New Haven Board of Education*

9/25/2022  
\_\_\_\_\_  
Date

**OFFICE OF EARLY CHILDHOOD**

  
\_\_\_\_\_  
BETH BYE, *Commissioner*, OR DESIGNEE

10 / 19 / 2022  
\_\_\_\_\_  
Date

**CONNECTICUT ATTORNEY GENERAL (APPROVED AS TO FORM)**

☒ This contract, prepared on a template previously reviewed and approved by the Connecticut Attorney General, is therefore exempt from individual review and approval pursuant to a Memorandum of Agreement between the Connecticut Office of Early Childhood and the Connecticut Attorney General, as amended from time to time.