SECTION I: INTRODUCTION

A. Purpose

The purpose of these specifications, entitled "2016 HMO Specifications for the New York State Health Insurance Program" (NYSHIP), hereinafter referred to as "Specifications," is to secure the services of qualified Health Maintenance Organizations (HMOs) for participation in the New York State Health Insurance Program (NYSHIP).

It is the intent of the Department of Civil Service (DCS or Department), in consultation with the Joint Labor Management Committee (JLMC), to secure a five (5) year contract(s) for HMO services for the years 2016 - 2020, subject to the approval of the New York State Office of the Attorney General (OAG) and New York State Office of the State Comptroller (OSC). The JLMC is a committee consisting of representatives of the State's collective bargaining units, the Department of Civil Service, and the Governor's Office of Employee Relations (GOER) which is charged with the responsibility to cooperatively develop and oversee administration of health care programs for State-represented employees and to make mutually agreed upon changes to health plan benefits. The Department requires that the HMO services offered be a community-based premium product, or a CMS-approved Medicare Advantage Plan for Medicare-Primary Enrollees. HMOs selected to participate in NYSHIP will be required on an annual basis to submit documentation, referred to as the "Required Annual Submission," of their continued eligibility to provide health plan benefits and description of their benefit package offering for the upcoming Plan Year. A description of the Required Annual Submission is found in Section II.A.6. An HMO's failure to submit the Required Annual Submission and clarifications, if any, for the JLMC's review and approval, or failure to obtain the JLMC's approval by the Department established deadlines, may result in the Department's termination of the Agreement that results from the Specifications or placement of restrictions on the HMO's participation in NYSHIP.

The Department, in consultation with the JLMC, will only consider submissions from HMOs that agree to provide coverage to both NYSHIP primary and Medicare primary Enrollees and Dependents. HMOs may either submit a Commercial Plan offering that is available to both such groups or an offering that is a combination of a Commercial Plan and a Medicare Advantage Plan that includes Centers for Medicare and Medicaid Services (CMS) approved Part D coverage. If the HMO has an approved Medicare Advantage Plan with Part D coverage in the same Service Area as the Commercial Plan offering, the HMO must offer the Medicare Advantage Plan to Medicare Primary Enrollees. In addition, the HMO Service Area must be limited to counties in New York

State and/or New Jersey. Residents of Service Areas in New Jersey must receive the same benefit levels as residents in the same HMO in New York State. The Department and JLMC will consider participation requests from HMOs that include their entire Service Area or an HMO that limits its proposal to include only certain counties in the Service Area. The Department may, at its discretion and in conjunction with the JLMC, select an HMO's entire proposed Service Area or may select specific counties within the proposed Service Area for participation in NYSHIP.

During years 2 – 5 of the term of the Agreement(s) that result from the Specifications, the Department may, at its discretion, in consultation with the JLMC determine that a geographic region is underserved by NYSHIP HMO coverage. To illustrate, presently the JLMC considers Chemung and Schuyler counties in New York and all counties in New Jersey as underserved counties. To address such need, the Department in consultation with the JLMC may consider expansion requests from HMOs that currently participate in the NYSHIP limited to geographic areas deemed underserved in NYSHIP at the Department's discretion in consultation with the JLMC.

Current NYSHIP participating HMOs would continue as contracted for the remainder of the five year term following the annual renewal and approval process as described in Section II.A.6.

This Specification document is a Periodic Recruitment initiative to obtain qualified HMOs for participation in NYSHIP. The Department expects to make multiple awards resulting from these Specifications. It is the Department's intent to offer a subsequent Periodic Recruitment of proposals in 2020.

B. Submission of Proposals

These Specifications contain information and instructions to enable interested parties (hereinafter referred to as "HMO") to prepare and submit Proposals as specified in Section II A.7 of these Specifications. Additional copies of these Specifications and related exhibits may be downloaded from the following URL: www.cs.ny.gov/HMO2016Specifications/index.cfm.

C. Overview of New York State Health Insurance Program

The New York State Health Insurance Program (NYSHIP) was established by the New York State Legislature in 1957 to provide essential health insurance protection to New York State (NYS) Employees, Retirees, and their eligible Dependents. Article XI of the NYS Civil Service Law (CSL) was amended to allow the New York State Employee Health Insurance Plan the option to be self-

funded. Specifically, the law states that the President of the Civil Service Commission "may provide health benefits directly to plan participants, in which case the president is hereby authorized to purchase a contract or contracts with one or more firms qualified to administer, on the New York State health benefit plan's behalf, the plan of benefits." Public authorities, public benefit corporations, and other quasi-public entities, such as the NYS Thruway Authority and the Dormitory Authority may choose to participate in NYSHIP; those that do are called Participating Employers (PEs). Article XI of the NYS CSL also allows local units of government such as school districts, special districts, and municipal corporations to participate in NYSHIP; those local government units which choose to participate in NYSHIP are called Participating Agencies (PAs). At present, there are approximately 453 NYS agencies, 102 PEs, and 784 PAs in NYSHIP. Under Article XI of the CSL, as amended, and 4 New York Code of Rules and Regulations (NYCRR) Part 73, as amended, the President of the New York State Civil Service Commission, who also serves as the Commissioner of the Department, through the Department's Employee Benefits Division (EBD), is responsible for the ongoing administration of NYSHIP.

NYSHIP currently covers over 589,600 NYS, PA and PE Employees and retirees. Eligible covered Dependents bring the total number of covered lives to approximately 1,222,500.

NYSHIP currently provides health benefits coverage through The Empire Plan, a Participating Provider Organization (PPO) with managed care components, and 9 Health Maintenance Organizations (HMOs). The Excelsior Plan is a lower cost version of The Empire Plan available to PAs. Additionally, the Student Employee Health Plan (SEHP) is administered through The Empire Plan contracts. SEHP is a health benefits plan for graduate student Employees of the New York State and New York City University systems. NYS and PE employees and retirees may elect to enroll in either The Empire Plan or in HMOs offered through NYSHIP. NYSHIP offers only The Empire Plan and the Excelsior Plan to PAs. PAs may, and frequently do, offer HMOs directly to their own Employees and retirees as an alternative to Empire Plan coverage.

Consistent with NYS Public Health Law Article 44 (Article 44), the NYSHIP offering of HMOs for those employees represented by a collective bargaining agent is subject to the collective bargaining process. As a result of this provision, agreements between the State and collective bargaining agents specify that the offering of HMOs be bargained through the JLMC, which consists of the State's nine collective bargaining agents, the Department and the Governor's Office of Employee Relations (GOER).

CSL ARTICLE XI authorizes the President of the Civil Service Commission to establish provisions for administration of the health benefit plan for unrepresented employees and to extend collectively bargained agreements in whole or in part to unrepresented employees based upon the approval of the Director of the Budget.

Further, CSL Article XI directs the President of the Civil Service Commission to purchase contracts for insurance to provide health benefits provided pursuant to that Article. Pursuant to this authority the Department contracts with HMOs to provide health benefits for participation in NYSHIP.

NYSHIP currently offers eligible enrollees coverage in HMOs as an alternative to coverage under the Empire Plan, a self-funded Participating Provider Organization (PPO) with managed care components. Enrollees may elect either Individual or Family coverage; NYSHIP does not offer coverage based on the number of Dependents, (e.g. Enrollee plus one Dependent, Enrollee plus two Dependents, etc.), nor does NYSHIP permit Dependents to be enrolled in a different NYSHIP health plan than the Enrollee. NYSHIP enrollment in either the Empire Plan or an HMO is available at the time of initial employment in a benefits eligible position, subject to a waiting period, and thereafter, subject to a late enrollment waiting period. NYSHIP has an annual Option Transfer Period during which Enrollees may change their existing health benefit option for the next Plan Year. Retired employees may change their health benefit option once every twelve months without regard to the Option Transfer Period.

D. Employer Premium Contribution

New York State Employees and Retirees are required to contribute toward the cost of the NYSHIP coverage option they select. For represented State Employees, the formula used to determine the amount that the Employer contributes towards the cost of HMO coverage is determined through collective bargaining between the State and the labor unions that represent State Employees. These contribution formulas are often extended to unrepresented Employees.

The State contributes on behalf of its Employees. For Employees in ratified groups with titles allocated or equated to Salary Grade 9 and below, the State will pay 88 percent of the cost of the premium for Enrollee coverage and 73 percent of the additional cost of Dependent coverage. For Employees with titles allocated or equated to Salary Grade 10 and above, the State will pay 84 percent of the cost of the premium for Enrollee coverage and 69 percent for the additional cost of Dependent coverage. For Employees in non-ratified groups, the State will pay 90 percent of the

cost of the premium for Enrollee coverage and 75 percent of the additional cost for Dependent coverage. The State's dollar contribution for the non-prescription drug components of the HMO premium, however, will not exceed its dollar contribution for the non-prescription drug components of The Empire Plan premium.

The State's contribution rate for Retirees varies depending on the date of retirement. See **Exhibit II.I** entitled "Employer Premium Contribution Rates."

Contribution rates for Participating Employers vary by Employer; however, the minimum contribution rates are 50% of the cost of Enrollee coverage and 35% of the additional cost of Dependent coverage.

E. Enrollment Statistics

The number of NYSHIP Enrollees by county is presented in **Exhibit II.D** entitled "NYSHIP Enrollment Statistics." HMOs may use these counts as an estimate of the number of Enrollees that may choose to enroll in an HMO during the Option Transfer Period. Currently, 15.34 % of State and Participating Employers NYSHIP Enrollees are enrolled in HMOs.

SECTION II: PROCUREMENT PROTOCOL AND PROCESS

A. RULES GOVERNING CONDUCT OF PROCUREMENT PROCESS

1. Time Line of Key Events

Release Date of 2016 HMO Specifications	April 23, 2015
Exhibit I.K Procurement Lobbying Offeror's Affirmation of Understanding & Agreement Due Date	see ***** below
Questions Due Date:	May 7, 2015
Release Date of Official Responses to Questions	May 21, 2015
Exhibit I.J Notice of Intent	May 26, 2015
Submission Due Date	June 4, 2015, 3:00 PM ET
Anticipated Notice of Approval/Disapproval Date	August 28, 2015
Rate Submission Deadline	September 1, 2015
Anticipated Contract Start Date	January 1, 2016

***** Prior to the HMO's initial contact with the Department, the HMO shall complete and submit Exhibit I.K Procurement Lobbying Offeror's Affirmation of Understanding & Agreement to the HMO Procurement Manager**.**

2. Procurement Lobbying Limitations

a. Pursuant to State Finance Law §139-j and §139-k, this solicitation imposes certain procurement lobbying limitations. HMOs are restricted from making contacts during the Procurement's "Restricted Period" (from the issuance of these Specifications until the date of the Contract's final approval by the NYS OSC) to other than designated staff of the Department and the Executive Branch of New York State government, unless the contact falls within certain statutory exceptions ("permissible contacts"). For purposes of this Section II.A.2 of the Specifications, HMO includes prospective HMOs prior to the due date for the submission of offers/bids (i.e., Submissions) in response to the solicitation document. Staff is required to obtain certain information from HMOs and others whenever there is a contact about the Procurement during the Restricted Period, and is required to make a determination of the HMO's responsibility that addresses the HMO's compliance with the statutes' requirements. Findings of non-responsibility result in rejection for contract award, and if an HMO is subject to two non-responsibility findings within four years the HMO also will be determined ineligible to submit a Proposal on or be awarded a contract

for four years from the date of the second non-responsibility finding. The Department's policy and associated procedures are included as **Exhibit I.L "Procurement Lobbying Policy: Restrictions on Contacts During the Procurement Process**" to these Specifications. Further information about these requirements can be found at: http://www.ogs.state.ny.us/aboutOGS/regulations/defaultAdvisoryCouncil.html

b. In order to ensure public confidence and integrity in the Procurement process, the Department will strictly control all communications between any HMO and participants in the evaluation process from the date these Specifications are released until the contract is approved by OSC. HMO means any individual or entity, or any employee, agent, consultant, or person acting on behalf of such individual or entity, who contacts the Department or any other State governmental entity about a governmental procurement during that procurement's Restricted Period, whether or not the caller has a financial interest in the outcome of the governmental procurement; provided however, that a governmental agency (or its employees) that communicates with the Department regarding a governmental procurement in the exercise of its oversight duties shall not be considered an HMO. HMO includes prospective HMOs prior to the due date for the submission of applications in response to the solicitation document. All contacts and inquiries, questions, filings and submissions of Proposals in regard to the Specifications must be directed, in writing, by mail, facsimile or email, as applicable, solely to the HMO Procurement Manager, the Department's designated contact for this Procurement. An HMO's failure to comply with this requirement may result in the HMO's disqualification from this Procurement.

If using the U.S. Postal Service, please use the following address:

HMO Procurement Manager
Employee Benefits Division, Room 1106
NYS Department of Civil Service
Albany, New York 12239

For all other carriers including couriers, UPS and FedEx please use the following address:

HMO Procurement Manager
Employee Benefits Division
NYS Department of Civil Service
Agency Building 1
Empire State Plaza
Albany, New York 12239

Email: HMO2016Specifications@cs.ny.gov

Additionally, any prospective HMOs and HMOs are strictly prohibited from making any contacts or inquiries concerning the Procurement with any member, officer or employee of any NYS governmental entity other than the Department from the date these Specifications are released until the contract is approved by OSC, subject only to the specific exceptions listed below. Further, any prospective HMO shall not attempt to influence the Procurement in any manner that would result in a violation or an attempted violation or an attempted violation of Public Officers Law §73(5) or §74.

c. The following contacts are exempted from the provisions of paragraph 3 of section 139-j and as such do not need to be directed to the HMO Procurement Manager pursuant to section 139-k:

(1) the submission of written Proposals in response to these Specifications;

(2) the submission of written questions by method set forth in these Specifications when all written questions and responses are to be distributed to all prospective HMOs who have expressed an interest in the Procurement;

(3) participation in a demonstration, conference or other means for exchange of information in a setting open to all prospective HMOs provided for in the solicitation;

(4) complaints by a prospective HMO regarding the failure of the HMO Procurement Manager to respond to an authorized contact, when such complaints are made in writing to the Department's Office of the General Counsel, provided that any such written complaints shall become a part of the Procurement record;

(5) communications by a successful HMO(s) who has been tentatively awarded a contract and is engaged in communications with Department solely for the purpose of negotiating the terms of the Contract after having been notified of tentative award;

(6) contact by an HMO to request the review of a Procurement award when done in accordance with the procedure specified in the solicitation document;

(a) contacts by an HMO in protests, appeals or other review proceedings (including the apparent successful HMOs and its representatives) before the Department seeking a final administrative determination, or in a subsequent judicial proceeding; or

(b) complaints of alleged improper conduct in the Procurement when such complaints are made to the NYS Attorney General, Inspector General, District Attorney, or to a court of competent jurisdiction; or

(c) written protests, appeals or complaints to NYS Comptroller's office during the process of contract approval, where the NYS Comptroller's approval is required provided that the NYS Comptroller shall make a record of such communications and any response thereto which shall be entered into the Procurement record pursuant to State Finance Law §163; or

(d) complaints of alleged improper conduct in a governmental procurement conducted by a municipal agency or local legislative body to the NYS Comptroller's Office; and

(7) communications between HMOs and governmental entities that solely address the determination of responsibility by a governmental entity by an HMO.

d. It is ***mandatory*** that all prospective HMOs complete Part 1 of **Exhibit I.K**, **"Procurement Lobbying Offeror's Affirmation of Understanding and Agreement"** affirming their understanding of, and agreement to comply with the procurement lobbying requirements set forth in State Finance Law §139-k and §139-j. A completed **Exhibit I.K** shall be submitted to the HMO Procurement Manager **prior to a prospective HMO making its initial contact with the Department** (e.g., submission of Notice of Intent to Apply (Exhibit I.J, submission of questions, etc., or concurrent with an HMO's submission, whichever shall occur first). HMOs are advised that whenever any of the HMO's officers, employees, agents or consultants contacts the Department, they should be prepared to provide their name, address, telephone number, place of principal employment, occupation, and whether they were retained, employed or designated, by or on behalf of the HMO to appear before or contact the Department in regards to this Procurement. To that end and to streamline the process, HMOs are requested to complete and submit Part 2 of Exhibit I.K entitled, "HMO Designated Contact."

Additionally, at the time a Submission is submitted to the Department, the HMO is required to provide a completed Certification of Compliance Pursuant to State Finance Law §139-k. This certification is included as **Exhibit I.P** of these Specifications.

3. Notice of Intent

Filing of this Notice of Intent is required of an HMO who intends to submit a Proposal since the Department must collaborate with the HMO in order for it to gain access to a secure online date interface (HMO ePage) to complete a Choices Page. For more detailed information on the Choices Guide see Section IV.D.3 of these Specifications. The Notice of Intent will also assist the Department in better managing the Procurement process, thus prospective HMOs, whether they intend to submit a Proposal or not, are requested to complete a **"Notice of Intent Form"** (**Exhibit I.J**) and submit it to the HMO Procurement Manager by the Notice of Intent Deadline as set forth in Section II.A.1. The completed form may be submitted either in hardcopy, at the address provided in Section II.A.2.b. of these Specifications or electronically at: HMO2016Specifications@cs.ny.gov.

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On the Notice of Intent Form, New York State certified Minority and Women- Owned Businesses (M/WBE) may request that their firm's contact information be included on a list of M/WBE firms interested in serving as a subcontractor for these Specifications. The listing will be publicly posted on the Procurement webpage at: www.cs.ny.gov/HMO2016Specifications/index.cfm for reference by the bidding community. A firm requesting inclusion on this list should send a copy of its NYS M/WBE certification with its completed Notice of Intent Form. Nothing prohibits an M/WBE vendor from proposing as a prime contractor.

4. Notice of Incomplete or Non-Compliant Submission

The HMO's Submission will be reviewed by the Department and the JLMC for completeness and compliance with the Specifications. If deficiencies are noted, the Department, in consultation with the JLMC, may return the Submission in its entirety to the HMO along with a brief description of the deficiency and a due date for submission of a corrected Submission. The Department in consultation with the JLMC may suspend further review of an HMO's Submission until such time as the HMO returns a corrected Submission. Submissions deemed by the Department in consultation with the JLMC to contain substantial deficiencies may be removed from further consideration for participation in the NYSHIP for the period covered by these Specifications. Therefore, it is in the best interest of the HMO to ensure that Submissions are complete and in accordance with these Specifications.

5. Submission of Errors or Omissions in the Solicitation Document

By participating in activities related to this Procurement, and/or by submitting a Submission in response to these Specifications, prospective HMOs agree to be bound by its terms, including, but not limited to, this process by which a prospective HMO may submit errors or omissions for consideration. In the event that a prospective HMO believes there is an error or omission in the Specifications, the prospective HMO may raise such issue according to the following provisions:

a. Process for Submitting Assertions of Errors or Omissions in Specifications

(1) ***Time Frame****:* Assertions of errors or omissions in the procurement process which are or should have been apparent prior to the Submission Due Date must be received by the Department, in writing, five (5) Business Days after the Release Date of Official Responses to Questions specified in Section II.A.1.

(2) ***Content****:* The submission alleging the error or omission must clearly and fully state the legal and/or factual grounds for the assertion and must include all relevant documentation

(3) ***Format of Submission****:* All submissions asserting an error or omission must be in writing and submitted to the Banking Services Procurement Manager at the following address:

If using the U.S. Postal Service, please use the following address:

HMO Procurement Manager
Employee Benefits Division, Room 1106
NYS Department of Civil Service
Albany, New York 12239

For all other carriers including couriers, UPS and FedEx please use the following address:

HMO Procurement Manager
NYS Department of Civil Service
Employee Benefits Division
Agency Building 1
Empire State Plaza
Albany NY 12239

The envelope or package must clearly and prominently display the following statement:

"Submission of Errors or Omissions for the
2016 HMO Specifications for the
New York Health Insurance Program

Any assertion of an error or omission which does not conform to the requirements set forth in this section shall be deemed waived by the prospective Offeror and the prospective Offeror shall have no further recourse.

b. The Review Process for Assertions of Errors or Omissions in Specifications

The Department shall conduct the review process for submission of errors or omissions. The Commissioner may appoint a designee who will review the submission and make a recommendation to the Commissioner as to the disposition of the matter. The Commissioner's designee may be an employee of the Department but, in any event, shall be someone who has not participated in the preparation of these Specifications, the evaluation of Submissions, or the selection decision. At the discretion of the Commissioner, or the Commissioner's designee, the prospective Offeror may be given the opportunity to meet with the Commissioner or the Commissioner's designee, as the case may be, to support its submission. The prospective Offeror may, but need not, be represented by counsel at such a meeting. Any and all issues concerning the manner in which the review process is conducted shall be determined solely by the Commissioner or the Commissioner's designee.

The Commissioner, or the Commissioner's designee, shall review the matter, and the Commissioner shall issue a written decision within twenty (20) business days after the close of the review process. If additional time for the issuance of the decision is necessary, the prospective Offeror shall be advised of the delay and of the time frame within which a decision may be reasonably expected. The Commissioner's decision will be communicated to the party in writing and shall constitute the agency's final determination in the matter.

The Department reserves the right to determine and to act in the best interests of the State in resolving any assertion of error or omission in the Specification document. As a consequence of reviewing the assertion, the Department may elect to extend the Submission Due Date as may be appropriate. Notice of any such extension will be provided to all organizations who registered via mail, facsimile or e-mail. Notice of any extension will also be posted to: www.cs.ny.gov/HMO2016Specifications/index.cfm

6. Submission of Questions

In the event a prospective HMO has any substantive or procedural questions concerning the content of the Specifications document, those questions can be submitted in the following manner to:

If using the U.S. Postal Service, please use the following address:

HMO Procurement Manager
Employee Benefits Division, Room 1106
NYS Department of Civil Service
Albany, New York 12239

For all other carriers including couriers, UPS and FedEx please use the following address:

HMO Procurement Manager
NYS Department of Civil Service
Employee Benefits Division
Agency Building 1
Empire State Plaza
Albany NY 12239

Email: HMO2016Specifications@cs.ny.gov

Prospective HMOs may submit questions to the HMO Procurement Manager, in writing, via e-mail, facsimile or mail. The Department strongly urges prospective HMOs to submit the questions via e-mail. Each question should cite the particular Specification section, page number and paragraph number to which it refers. All responses will be considered unofficial until issued or confirmed in writing by the Department on the Procurement website. Only those questions submitted prior to 5:00 p.m. Eastern Time (ET), on the Questions Due Date as shown in Section II.A.1. of the Specifications, may be accepted.

To expedite its responses, the Department has provided a question template form which prospective HMOs are requested to use in submitting questions regarding the Specifications (see [**Exhibit I.R**] "Question Template").

After the Questions Due Date, the Department will provide to all organizations who have registered, e-mail notification of the posting of all questions received and the Department's Official Responses to said questions. The aforementioned information will be posted to: www.cs.ny.gov/HMO2016Specifications/index.cfm and all registered potential HMOs will be notified of the posting to this site.

Amended May 12, 2015

7. Submission Requirements

Each HMO responding to these Specifications must submit ~~one~~ two (2) Original hard copies **and** one (1) electronic copy (CD). The electronic submission must be prepared in a searchable PDF format.

The Original must be marked "ORIGINAL" and contain original signatures of an official(s) authorized to bind the HMO to its provision on all forms submitted that require the HMO's signature and should be marked Original #1 and Original #2. Electronic signatures are not acceptable. ~~The additional hard copy should be marked "COPY".~~ Please note that hard copy marked "ORIGINAL #1" will be deemed controlling by the Department when viewing the Submission.

Submissions should be placed in sealed boxes/envelopes. Each sealed box/envelope should contain a label on the outside of the container which contains the information below:

New York State Department of Civil Service

2016 HMO Submission for the
New York State Health Insurance Program

HMO Name
HMO Address

All Submissions must be sent to the following:

If using the U.S. Postal Service, please use the following address:

HMO Procurement Manager
Employee Benefits Division, Room 1106
NYS Department of Civil Service
Albany, New York 12239

For all other carriers including couriers, UPS and FedEx please use the following address:

HMO Procurement Manager
NYS Department of Civil Service
Employee Benefits Division
Agency Building 1
Empire State Plaza
Albany NY 12239

For those HMOs who plan to have the Submission hand delivered, arrangements for acceptance of the packages must be made in accordance with Procurement security procedures. **To make such arrangements, the Department requests that the HMO notify**

the HMO Program Procurement Manager forty-eight (48) hours prior to delivery. All Submissions must be received by 3:00 p.m. ET on the Submission Due Date as set forth in Section II.A.1 of these Specifications. ***No exceptions will be made for late submission or delays in delivery of the Submission***. If the Submission is delivered by mail or courier, the Department recommends that it be sent "return receipt requested," so the HMO obtains proof of timely delivery.

All Submissions become the property of the Department. Any Submission received after 3:00 p.m. ET on the Submission Due Date will not be accepted by the Department and may be returned to the submitting entity at the Department's discretion.

A **copy** of the Submission should be sent to **all** JLMC Contact Members listed in **Exhibit II.B** of these Specifications. Submissions must be received by all JLMC Contact Members no later than 3:00 P.M. ET on the Submission Due Date set forth in Section II A.1.

The Department will accept amendments and/or additions to an HMO's Submission if the amendments and/or additions are received by the Department **prior** to 3:00 P.M. ET on the Submission Due Date. All amendments to an HMO's Submission must be submitted in writing, in accordance with the format set forth in Section II.A.7.(6) of these Specifications, and will be included as part of the HMO's Submission, if accepted by the Department as provided above.

HMOs are cautioned to verify the content of their Submission before it's submitted. Except for material received from an HMO in response to a request by the Department, the Department will not accept amendments or additions to a Submission if such material is received after 3:00 P.M. ET on the Submission Due Date. HMOs are encouraged to submit the Submission Requirement Checklist (**Exhibit I.A)** to facilitate verification of Submission contents. An HMO's request to withdraw a Submission after the Submission Due Date may be considered at the sole discretion of the Department.

Formatting Requirements

The Submission must comply with the following formatting requirements (Failure to comply with the formatting requirements herein below may, but will not necessarily, result in the Submission being deemed non-responsive and may, but will not necessarily, result in rejection of the Submission):

(1) ***Binding of Submission:*** Each HMO must submit its Original hard copy Submission so that any new/replacement pages required by the Department can be easily incorporated into the original Submission. The official name of the organization, the Submission Due Date, and "2016 HMO Submission" must appear on the outside front cover of the HMO's bound Submission. If the Submission is submitted in loose-leaf binders, official name of the organization and "2016 HMO Submission" also must appear on the spine of the binder.

Each HMO must submit its electronic copy on a CD. The official name of the organization must appear on both the CD and its plastic cover case. Electronic documents must be prepared in a searchable PDF format.

(2) ***Table of Contents:*** The Submission must include a table of contents;

(3) ***Index Tabs:*** Each major section of the Submission and each Exhibit must be labeled with an index tab that completely identifies the title of the Section or Exhibit as named in the table of contents.

(4) ***Pagination:*** Each page of the Submission, including Exhibits, must be labeled on the upper right with the Section title and Section reference, page number, and date. Pages must be numbered consecutively. Each page must also be labeled with the name of the HMO.

(5) ***Exhibits:*** Each exhibit should be a separate searchable PDF document. Each Certificate of Insurance or Rider should be a separate searchable PDF document. All electronic documents should be clearly labeled with the specific corresponding title.

(6) ***Submission Updates/Corrections:*** HMOs must present their Submissions so that any update pages required by the Department can be easily incorporated into the Submission. Should it be necessary for an HMO to submit additional information in support of its Submission, it must be submitted in accordance with the following: upon written notification by the HMO and agreement by the JLMC, new or replacement pages may be placed in the Submission. All new or replacement pages will show the date of the revision and indicate the portion of the page being changed. This latter requirement will be fulfilled by drawing vertical lines down both margins of all affected passages. All new/replacement pages will be noted by the Department on an errata sheet to be placed at the front of the Submission.

The PDF version of the replacement pages must be named in the same manner described above, and also be in a searchable PDF format. The date of revised Submission is the date that should be inserted on the revised pages.

8. Future Years

HMOs selected for participation in the NYSHIP for 2016 may continue participation in NYSHIP in 2017 through and including 2020, at the discretion of the Department, in consultation with the JLMC. Acceptance by the Department and JLMC for participation in 2016 is not a guarantee that the Department will approve an HMO's continued participation in NYSHIP in 2017 or beyond. Upon acceptance for participation in NYSHIP in 2016, an HMO must, on an annual basis submit documentation, referred to as the "Required Annual Submission," to the JLMC for the Committee's review and approval. Participating HMOs will be advised by written correspondence of the Required Annual Submission.

The HMO's continued participation in NYSHIP for each year subsequent to 2016 is contingent upon review and approval of the following documents by the Department and the JLMC. The Required Annual Submission documents will include, but are not limited to:

a. New York State (NYS) Department of Health Certification for HMOs to operate within an approved Service Area and the ability to provide comprehensive hospital, medical and prescription drug benefits for covered Enrollees

b. Current HMO status based on the National Committee on Quality Assurance (NCQA)

c. Key Subcontractors listing

d. Service Area expansion requests

e. Submission to offer or discontinue a Medicare Advantage product

f. Most recent annual filing of Schedule M (Complaints)

g. Coverage and benefit documents, including but not limited to:

- Enrollee Certificate of Coverage
- MAP Evidence of Coverage
- Choices - HMO e-page
- Schedule of Benefits

- Side by Side comparison of changes in benefits from 20XX (current year) to 20XX (upcoming year)
- Coverage Riders and Addendums
- Annual communication materials to Enrollees
- Summary of Benefits and Coverage
- Other Required Submission Material

At the discretion of the Department and the JLMC, the Required Annual Submission documents may be amended. The Department will notify the HMO in writing of such changes no later than thirty (30) days prior to the requested due date of the Required Annual Submission.

As a Periodic Recruitment, the Department and JLMC reserve the right to consider additional HMOs starting on the one year anniversary of the award start date or at any time deemed to be in the best interests of the State, as determined by the Department. Such HMOs shall be required to submit an original Submission document and, where applicable, Submissions shall be evaluated under the original Specifications requirements. An addendum containing additional applicable statutory requirements currently in effect at the time of the Periodic Recruitment may be added to the recruitment. The Department is not required to award on offers under Periodic Recruitment.

Upon receipt of the written Submission from a qualified HMO, the Department in consultation with the JLMC shall evaluate the Submission under the same terms and conditions as original bid submissions and any amendments that may have been issued. If accepted, a contract(s) shall be awarded for the remaining term of the initial agreement. Once awarded a contract(s), HMOs need not resubmit a Submission for continued participation in NYSHIP for the remainder of the contract term but must apply for continuation through the Required Annual Submission process.

9. <u>Submission Evaluation</u>

The Department and JLMC members listed in Exhibit II.B, and their staff will evaluate Submissions. The evaluation will include, but not be limited to, assessment of the Submission against the Specifications, comparison of the Submission to other plans offered, and assessment of the needs of the Employee population in the HMO's Service Area. During the evaluation process, the Department, in consultation with the JLMC may require clarification

information from an HMO for the purpose of assuring the Department's full understanding of the HMO's responsiveness to the Specifications requirements. Any request for clarification must be responded to in writing by the HMO in accordance with formats set forth in Section II A.7.(6) of the Specifications and be received by the due date specified by the Department. Failure to provide the required information by said due date may result in rejection of an HMO's Submission. Nothing in the foregoing shall mean or imply that it is obligatory upon the Department to seek or allow clarifications as provided herein. The Department in consultation with the JLMC reserves the right to request interviews with HMO executives as part of the evaluation process.

10. Notice of Approval/Disapproval of Submission

The Department will notify HMOs of their approval or disapproval in accordance with Exhibit II.A - Time Line of Key Events - of these Specifications.

Although the offering of HMOs to the State's non-represented Employees and Retirees does not require collective bargaining, it is preferable to offer the same HMOs to the unrepresented and Retiree population in the interests of uniformity and efficiency in marketing and administration.

No public discussion or news releases relating to the Specifications, the associated Procurement process, including but not limited to the bid solicitation, Submission evaluation and award and contract processes or the Agreement shall be made by any HMO or their agent without the prior written approval of the Department.

11. Debriefing

As stated in, Section II.A.10 above, approval or disapproval letters will be sent to the HMOs. At that time, HMOs will be advised of the opportunity to request a Debriefing and the timeframe by which such requests must be made, dependent upon the nature of the Debriefing, i.e., pre-award or post-award. Debriefings are subject to the Department's Debriefing Guidelines which are set forth in **Exhibit I.H**. entitled, "NYS Department of Civil Service Debriefing Guidelines." An unsuccessful HMO's written request for a debriefing shall be submitted to:

If using the U.S. Postal Service, please use the following address:

HMO Procurement Manager
Employee Benefits Division, Room 1106
NYS Department of Civil Service

Albany, New York 12239

For all other carriers including couriers, UPS and FedEx please use the following address:

HMO Procurement Manager
NYS Department of Civil Service
Employee Benefits Division
Agency Building 1
Empire State Plaza
Albany NY 12239
Fax: 518-473-3292
E-Mail: HMO2016Specifications@cs.ny.gov

12. Submission of Award Protests

By participating in activities related to this Procurement, and/or by submitting a Submission in response to these Specifications, all HMOs agree to be bound by its terms including, but not limited to, the process by which an HMO may submit protests of the selection award for consideration. In the event that an HMO decides to protest the selection decision, the HMO may raise such issue according to the following provisions.

a. **Process for Submitting Post Award Protests of the Selection Decision**

(1) ***Time Frame****:* Any protest of the selection decision must be received no later than ten (10) Business Days after an HMO's receipt of written notification by the Department of a conditional award.

(2) ***Content****:* The submission of the protest must clearly and fully state the legal and/or factual grounds for the protest and must include all relevant documentation.

(3) ***Format of Submission****:* All submissions of protest must be in writing and submitted to the HMO Procurement Manager at the following address:

If using the U.S. Postal Service, please use the following address:

HMO Procurement Manager
Employee Benefits Division, Room 1106
NYS Department of Civil Service
Albany, New York 12239

For all other carriers including couriers, UPS and FedEx please use the following address:

HMO Procurement Manager
NYS Department of Civil Service
Employee Benefits Division
Agency Building 1
Empire State Plaza

Albany NY 12239

A protest of the selection decision must have the following statement clearly and prominently displayed on the envelope or package:

"Submission of Selection Protest for
2016 HMO Specifications for the
New York State Health Insurance Program"

Any assertion of protest which does not conform to the requirements set forth in this section shall be deemed waived by the HMO, and the HMO shall have no further recourse.

b. **Review of Submitted Protests**

The Department shall conduct the review process of submitted protests. The Department's Commissioner may appoint a designee to review the submission and to make a recommendation to the Commissioner as to the disposition of the matter. The Commissioner's designee may be an employee of the Department but, in any event, shall be someone who has not participated in the preparation of these Specifications, the evaluation of Submissions, or the selection decision. At the discretion of the Commissioner, or the Commissioner's designee, the HMO may be given the opportunity to meet with the Commissioner or her designee, as the case may be, to support its submission. The HMO may, but need not, be represented by counsel at such a meeting. Any and all issues concerning the manner in which the review process is conducted shall be determined solely by the Commissioner, or the Commissioner's designee. The Commissioner, or the Commissioner's designee, shall review the matter, and the Commissioner shall issue a written decision within twenty (20) business days after the close of the review process. If additional time for the issuance of the decision is necessary, the HMO shall be advised of the delay and of the time frame within which a decision may be reasonably expected. The Commissioner's decision will be communicated to the party in writing and shall constitute the Department's final determination in the matter.

In the event that an HMO protests the selection decision, the Department shall continue contract negotiations regarding the terms and conditions of the agreement with the selected HMO(s) pending the outcome of the protest. Any HMO whose Submission might become eligible for a conditional award in the event that the intended selection is

disqualified may be asked to extend the time for which their Submission shall remain valid.

The Department reserves the right to determine and to act in the best interests of the State in resolving any post award selection protest.

13. The Department of Civil Service Reservation of Rights

In addition to any rights articulated elsewhere in these Specifications, the Department reserves the right to:

a. Make or not make an award(s) under the Specifications in whole or in part;

b. Prior to the bid opening, amend the Specifications. If the Department elects to amend any part of the Specifications, notification of the amendment will be provided to all organizations who submitted a Procurement Registration Form and/or a Procurement Lobbying Offeror's Affirmation of Understanding and Agreement (Exhibit I.K) via e-mail, facsimile or mail. Any amendments will also be posted to: www.cs.ny.gov/HMO2016Specifications/index.cfm;

c. Prior to the submission opening, direct HMOs to submit modifications addressing subsequent Specifications amendments;

d. Withdraw the Specifications, at any time, in whole or in part, at the Department's sole discretion, prior to OSC approval of award of the contract(s);

e. Waive any requirements that are not material;

f. Disqualify any HMO whose conduct and/or Submission fails to conform to any mandatory requirements of the Specifications;

g. Require clarification at any time during the Procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an HMO's Submission and/or to determine an HMO's compliance with the requirements of the Specifications;

h. Reject any or all Submissions received in response to the Specifications, at its sole discretion;

i. Change any of the scheduled dates stated in the Specifications;

j. Seek clarifications and revisions of Submissions;

k. Establish programmatic and legal requirements to meet the Department's needs, and to modify, correct, and/or clarify such requirements at any time during the Procurement, provided that any such modifications would not materially benefit or disadvantage any particular HMO;

l. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective HMOs;

m. For the purposes of ensuring completeness and comparability of the Proposals , analyze Submissions and make adjustments or normalize Submissions in the Proposal(s), including the HMO's technical assumptions, and underlying calculations and assumptions used to support the HMO's computation of costs, or to apply such other methods it deems necessary to make level comparisons across Proposals;

n. Use the Proposal, information obtained through any site visits, management interviews, and the Department's own investigation of an HMO's qualifications, experience, ability or financial standing, and any other material or information submitted by the HMO in response to the Department's request for clarifying information, if any, in the course of evaluation and selection under the Specifications;

o. Negotiate with the successful HMO(s) within the scope of the Specifications in the best interests of the Department;

p. Utilize any and all ideas submitted in the Proposal(s) received;

q. Set aside the conditional award to the selected HMO(s) should the Department be unsuccessful in negotiating an agreement with that HMO within a time frame acceptable to the Department; such time frame is to be determined solely by the Department based on the best interest of the Department and the State; and

r. Unless otherwise specified in the Specifications, every offer is firm and not revocable for a minimum period of 365 days from the Submission Due Date as set forth in the Specifications.

14. Limitation of Liability

The Department is not liable for any cost incurred by any HMO prior to approval of the Agreement by OSC. Additionally, no cost will be incurred by the Department for any prospective HMO or HMO's participation in any Procurement-related activities.

The Department has taken care in preparing the data accompanying these Specifications (hardcopy exhibits, website exhibits and sample document exhibits). However, the Department does not warrant the accuracy of the data; the numbers or statistics which appear in hardcopy exhibits, website exhibits, and sample document exhibits referenced throughout these Specifications are for informational purposes only and should not be used or viewed by prospective HMOs as guarantees or representations of any levels of past or future performance or participation. Accordingly, prospective HMOs should rely upon and use such numbers or statistics in preparing their Submissions at their own discretion.

B. COMPLIANCE WITH APPLICABLE RULES, LAWS, REGULATIONS & EXECUTIVE ORDERS

This Procurement is governed by, at a minimum, the legal authorities referenced below. All HMOs must fully comply with the provisions set forth in this Section II.B of these Specifications. The Department in consultation with the JLMC will consider for evaluation and selection purposes only those HMOs who agree to comply with these provisions whose Submission contains the Statements, Formal Certifications and Exhibits submissions required hereunder.

1. Public Officers Law

All HMOs, HMO employees and agents shall be aware of and comply with the requirements of the New York State Public Officers Law ("POL"), particularly POL Sections 73 and 74, as well as all other provisions of New York State law, rules and regulations, and policy establishing ethical standards for current and former NYS Employees. In signing its Submission, each HMO guarantees knowledge and full compliance with such provisions for purposes of these Specifications and any other activities including, but not limited to, contracts, bids, offers, and negotiations. Failure to comply with these provisions may result in disqualification from the HMO selection process, termination, suspension or cancellation of the Agreement and criminal proceedings as may be required by law. Per Specification Section III.C, HMOs must submit an affirmative statement as to the existence of, absence of, or potential for conflict of interest on the part of the HMO because of prior, current, or proposed contracts,

engagements, or affiliations by submitting a completed **Exhibit I.M**, **"Compliance with Public Officers Law Requirements",** with its Submission.

2. <u>Omnibus Procurement Act of 1994 and its 2000 Amendment</u>

HMOs are hereby notified that, if their principal place of business is located in a foreign or domestic jurisdiction that penalizes New York State vendors, and if the goods or services they offer would be produced or performed substantially outside New York State, the Omnibus Procurement Act of 1994 and its 2000 amendments require that they be denied contracts which they otherwise could obtain.

The list of jurisdictions subject to this provision is set forth in Article 20 of Appendix A.

3. CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

NEW YORK STATE LAW

Pursuant to New York State Executive Law Article 15-A and 5 NYCRR 140-145 the Department recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises and the employment of minority group members and women in the performance of the Department contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority-and women-owned business enterprises in state procurement contracting versus the number of minority-and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among

other things, that the Department establishes goals for maximum feasible participation of New York State Certified minority- and women – owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, the Department hereby establishes an overall goal of 30% for MWBE participation, 15% for New York State certified minority-owned business enterprises ("MBE") participation and 15% for New York State certified women-owned business enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs and applied only to the administrative component of HMO premiums). A contractor ("Contractor") on the subject contract ("Contract") must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and the Contractor agrees that the Department may withhold payment pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: https://ny.newnycontracts.com. For guidance on how the Department will determine a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and the Department may withhold payment from the Contractor as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, a bidder on the Contract ("Bidder") agrees to demonstrate its good faith efforts to achieve its goals for the utilization of MWBEs by submitting evidence thereof through the New York State Contract System ("NYSCS"), which can be viewed at https://ny.newnycontracts.com, provided, however, that a Bidder may arrange to provide such evidence via a non-electronic method by contacting the Department. Please note that the NYSCS is a one stop solution for all of your MWBE and Article 15-A contract requirements. For additional information on the use of the NYSCS to meet Bidder's MWBE requirements

please see the attached MWBE guidance, "Your MWBE Utilization and Reporting Responsibilities Under Article 15-A."

Additionally, a Bidder will be required to submit the following documents and information as evidence of compliance with the foregoing:

A. An MWBE Utilization Plan – Form MWBE-100 (**Exhibit I.O**) with their bid or Proposal. Any modifications or changes to the MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to the Department.

   The Department will review the submitted MWBE Utilization Plan and advise the Bidder of the Department's acceptance or issue a notice of deficiency within 30 days of receipt.

B. If a notice of deficiency is issued, the Bidder will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to the Department, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Department to be inadequate, the Department shall notify the Bidder and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals on Form MWBE-101 entitled "Request for Waiver Form" available at: http://www.cs.ny.gov/pio/mwbe-eeo-forms.cfm. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or Proposal.

The Department may disqualify a Bidder as being non-responsive under the following circumstances:

a) If a Bidder fails to submit a MWBE Utilization Plan;
b) If a Bidder fails to submit a written remedy to a notice of deficiency;
c) If a Bidder fails to submit a request for waiver; or
d) If the Department determines that the Bidder has failed to document good faith efforts.

The Contractor will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to the Department, but must be made no later than prior to the submission of a request for final payment on the Contract.

The Contractor will be required to submit a Contractor's Quarterly M/WBE Contractor Compliance & Payment Report to the Department, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract. Form MWBE-103 is available at: http://www.cs.ny.gov/pio/mwbe-eeo-forms.cfm.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A – Standard Clauses for All New York State Contracts including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over $25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the Contractor, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The Bidder will be required to submit a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement (**Exhibit I.Q)**, to the Department with their proposal.

To ensure compliance with this Section, the Bidder will be required to submit with its proposal an Equal Employment Opportunity Staffing Plan - Form EEO-100 (**Exhibit I.G**) identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit an Equal Employment Opportunity Workforce Employment Utilization Compliance Report identifying the workforce actually utilized on the Contract, if known, through the New York State Contract System; provided, however, that a Bidder may arrange to provide such report via a non-electronic method by contacting the Department.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

Per Specifications Section III.C, executed copies of:

Exhibit I.G entitled "EEO Staffing Plan (form EEO-100),"

Exhibit I.O entitled, "MWBE Utilization Plan (form MWBE-100)," and

Exhibit I.Q entitled, "Minority and Women-Owned Business Enterprises & Equal Employment Opportunity Policy Statement,"

must be submitted as part of the HMO's Submission.

4. Americans With Disabilities Act

The Contractor will be required to assure its compliance with the Americans With Disabilities Act (42 USC§12101 et. seq.), in that any services and programs provided during the course of performance of the Agreement shall be accessible under Title II of the Americans With Disabilities Act, and as otherwise may be required under the Americans With Disabilities Act by submitting a completed **"Compliance with Americans with Disabilities Act"** form (**Exhibit I.N**) with its Submission.

5. MacBride Fair Employment Principles Act & Non-Collusive Bidding Certification

In accordance with Chapter 807 of the Laws of 1992, HMOs must certify whether they or any individual or legal entity in which the HMO holds a ten percent (10%) or greater ownership interest, or any individual or legal entity that holds a ten percent (10%) or greater ownership in the HMO have business operations in Northern Ireland. If an HMO does have business operations in Northern Ireland, they shall certify that they are taking lawful steps in good faith

to conduct such business operations in accordance with the MacBride Fair Employment Opportunity Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such principles.

The Department also requires that HMOs certify that prices in their Submission have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition with any other HMO or competitor. In addition, that unless required by law, the prices quoted in the HMO's Submission have not been knowingly disclosed by the HMO and will not knowingly be disclosed by the HMO prior to opening, directly, indirectly, to any other HMO or to any competitor. HMOs must also certify that no attempt has been made or will be made by the HMO to induce any person, partnership or corporation to submit or not to submit a Submission for the purpose of restricting competition. An executed copy of the combined MacBride Act statement form and Non-Collusive Bidding Certification **(Exhibit I.D)** is required to be submitted with the HMO's Submission.

6. Vendor Responsibility Requirements – State Finance Law *§* 163

New York State Finance Law §163 requires contracts for services and commodities be awarded "to a responsive and responsible HMO." Furthermore, §163(9)f requires the Department to make a determination of responsibility of the proposed contractor prior to making an award.

To assist the Department in evaluating the responsibility of HMOs, a completed **"New York State Standard Vendor Responsibility Questionnaire"** must be submitted in the HMO's Submission. A person legally authorized to represent the HMO must execute the questionnaire. To the extent that the Contractor is proposing the use of Key Subcontractors or Affiliates (i.e., part of the HMO's proposed Account Team) and expected to receive more than $100,000 in payments during the term of the Agreement, the HMO must submit a completed "New York State Standard Vendor Responsibility Questionnaire" for each Key Subcontractor or Affiliate completed by a person legally authorized to represent the Key Subcontractor or Affiliate.

The Department recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System; however, vendors may choose to complete and submit a paper questionnaire. To enroll in and use the New York State

VendRep System, see the VendRep System Instructions available at: http://www.osc.state.ny.us/vendrep/vendor_index.htm or go directly to the VendRep System online at: https://portal.osc.state.ny.us.

Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller's Help Desk at 866-370-4672 or 518-408-4672 or by email at: itservicedesk@osc.state.ny.us.

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the Office of the State Comptroller's Help Desk for a copy of the paper form.

7. Tax Law Section 5-a Certification Regarding Sales and Compensating Use Taxes

Section 5-a of the New York Tax Law requires that any contract valued at more than $100,000 entered into by a NYS agency shall not be valid, effective, or binding against the agency unless the Contractor certifies to the Tax Department that it is registered to collect New York State and local sales and compensating use taxes, if the Contractor made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000, measured over a specified period. In addition, the Contractor must certify to the Tax Department that each Affiliate and Key Subcontractor of such Contractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. For the purpose of this requirement, "affiliate" means a person or organization which, through stock ownership or any other affiliation, directly, indirectly, or constructively controls another person or organization, is controlled by another person or organization, or is, along with another person or organization, under the control of a common parent. The Contractor also must certify to the procuring state entity that it filed the certification with the Tax Department and that the certification is correct and complete. Accordingly, in the event the value of this Contract exceeds $100,000, the Contractor must file a properly completed ST-220-CA (**Exhibit I.E)** with the Department and a properly completed Form ST-220-TD (**Exhibit I.F)** with the Department of Taxation & Finance before the Contract may take effect. In addition, after the Agreement has taken effect, the Contractor must file a properly completed Form ST-220-CA with the Department if the Agreement's term is renewed. Further, a new Form ST-

220-TD must be filed with the Department of Taxation & Finance if no ST-220-TD has been filed by the Contractor or if a previously filed Form ST-220-TD is no longer correct and complete.

Submission of these forms (ST-220-CA and ST-220-TD) is not required at time of Proposal submission; however, the selected HMO will be required to complete and submit these forms as a condition of contract award. These forms may also be found at: www.tax.state.ny.us/forms/sales_cur_forms.htm

8. Disclosure of Submission Contents – Freedom of Information Law (FOIL) NOTICE TO HMO'S LEGAL COUNSEL

All materials submitted by an HMO in response to these Specifications shall become the property of the Department and may be returned to the HMO at the sole discretion of the Department. Submissions may be reviewed by any person, other than one associated with a competing HMO, designated by the Department. HMOs may anticipate that Submissions will be reviewed by staff and consultants retained by the Department, the JLMC, and may also be reviewed by staff of other NYS agencies interested in the provision of the subject services, including but not limited to the Governor's Office of Employee Relations, and the Division of the Budget unless otherwise expressly indicated in these Specifications. Representatives of affected collective bargaining units also will be allowed to review HMO Submissions. The Department in consultation with the JLMC has the right to adopt, modify, or reject any or all ideas presented in any material submitted in response to the Specifications.

To request that materials be protected from FOIL disclosure, the HMO must follow the procedures below regarding the New York State Freedom of Information Law (FOIL). If an HMO believes that any information in its Submission or supplemental submission(s) constitutes proprietary and/or trade secret information and desires that such information not be disclosed if requested pursuant to the New York State Freedom of Information Law, Article 6 of the Public Officers Law, the HMO must make that assertion by completing **Exhibit I.C "Freedom of Information Law – Request for Redaction Chart"**. The HMO must complete the form specifically identifying by page number, line, or other appropriate designation, the specific information requested to be protected from FOIL disclosure and the specific reason why such information should not be disclosed. Page 2 of **Exhibit I.C** contains information regarding appropriate justification for protection from FOIL disclosure. Vague, non-specific,

summary allegations that material is proprietary or trade-secret are inadequate and will not result in protection from FOIL disclosure.

The completed Exhibit I.C **must be submitted to the Department at the time of its Submission; it should be included with the Requested Redactions (CD and Hardcopy), described below. It should not be included with the HMO's Submission.** If the HMO chooses not to assert that any Submission material and/or supplemental submission should be protected from FOIL disclosure, the HMO should so advise the Department by checking the applicable box on **Exhibit I.C** and submitting it to the Department at the time of its submission, but separately from its Submission. If a completed **Exhibit I.C** form is not submitted, the Department will assume that the HMO chooses not to assert that any Submission material or supplemental submission, as applicable should be protected from FOIL disclosure.

The FOIL-related materials described herein will not be considered part of the HMO's Submission and will not be reviewed as a part of the Procurement's evaluation process.

Requested Redactions (CD and Hard Copy):

At the time of submission, the HMO is required to identify the portions of its Submission that it is requesting to be redacted, in accordance with the instructions below, to be used in the event that its submission is the subject of a Freedom of Information Law (FOIL) request received by the Department:

The HMO must provide an electronic copy of the HMO Submission on a separate CD, which reflects the HMO's requested redactions. Additionally, the HMO must provide a separately bound hardcopy of HMO Submission documents with redactions marked that are included on the CDs. The electronic documents must be prepared in PDF format using the Redaction Function in Adobe Acrobat Professional software, version 8 or higher. Each specific portion of the Submission documents requested to be protected from FOIL disclosure must be identified using the Adobe **"Mark for Redaction" function; do not use the "Apply Redactions" function.** The resulting documents must show the HMO's requested redactions as outlined, while the content remains visible. This will allow the Department to either apply or remove requested redactions when responding to FOIL requests. The documents included on the CD and in hardcopy must be complete Submissions, including all Exhibits and Attachments. No section may be omitted from the CD or hard copy even if the entire section is requested to be redacted; such sections should be marked for redaction, not removed. For forms, exhibits and

charts please mark for redaction only those cells/fields/entries that meet the criteria for protection from FOIL, not the entire page.

During the Submission evaluation process, the Department may request additional information through clarifying letters and at management interviews. Any requested redactions for additional written material provided by the HMO in response to the Department's requests also must be submitted following the instructions, above.

9. Compliance with New York State Workers' Compensation Law

Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) provide that the Department shall not enter into any contract unless proof of workers' compensation and disability benefits insurance coverage is produced. Prior to entering into a contract with the Department, selected HMOs and Key Subcontractor(s) or Affiliates, with more than $100,000 in expected expenses over the life of the contract, if any, will be required to verify for the Department, on forms authorized by the New York State Workers' Compensation Board, the fact that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed in **Exhibit I.W** - Compliance With NYS Workers' Compensation Law. Any questions relating to either workers' compensation or disability benefits coverage should be directed to the State of New York Workers' Compensation Board, Bureau of Compliance at (518)486-6307. HMOs may also find useful information at their website http://www.wcb.ny.gov.

Submission of the proof of HMOs will be required to provide this documentation before execution of the Contract or Contract Amendment as set forth in **Exhibit II.A** Time Line of Key Events – of these Specifications. Failure to provide verification of either of these types of insurance coverage by the time the HMOs are selected to participate in NYSHIP and the Contract or Contract Amendment is ready to be executed will be grounds for disqualification of an otherwise successful Submission.

10. Iran Divestment Act

By submitting a Submission in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, HMO/Contractor (or any assignee) certifies that it is not on the "Entities Determined To Be Non-Responsive Bidders/HMOs Pursuant to The New York State Iran Divestment Act of 2012" list ("Prohibited Entities List") posted on the OGS website at:

http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, HMO/Contractor is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or extended.

During the term of the Contract, should the Department of Civil Service receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the Department of Civil Service will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the Department of Civil Service shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

The Department of Civil Service reserves the right to reject any Submission, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

11. New York Subcontractors and Suppliers

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the State and the nation. In recognition of their economic activity and leadership in doing business in New York State, HMOs for these Specifications are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

HMOs need to be aware that all authorized users of this contract will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in utilizing services and technology. Furthermore, HMOs are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York's infrastructure, and maximize economic activity to the mutual benefit of the Contractor and its New York State business partners. New York State businesses will promote the Contractor's optimal performance under the contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its contractors. The State therefore expects HMOs to provide maximum assistance to New York businesses in their use of the contract. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers. HMOs are required to complete **Exhibit I.U.2**, NYS Subcontractors and Supplies.

12. Not for Profit Organizations

Article 7-a of the Executive Law requires, with certain exemptions, that charitable organizations shall register with the Office of the Attorney General. In addition, the Estates, Powers and Trusts Law (EPTL) Section 8-1.4(s) requires that a charitable organization "shall not be qualified to make application for funds or grants or to receive such funds from any department or agency of the state without certifying compliance with" all applicable registration and filing requirements.

Section 172-a of the Executive Law and Section 8.14 of the EPTL enumerate certain entities which are exempt from the registration requirements. These entities are listed on the Office of the Attorney General's Request for Registration Exemption (Schedule E).

HMOs (charitable organizations) that are not for profit entities shall provide a statement that the organization is exempt pursuant to one of the categories indicated on the Office of Attorney General's Request for Registration Exemption (Schedule E). The statement shall identify the specific category under which the charitable organization is exempt, and **be submitted with the vendor responsibility documents**.

SECTION III: ADMINISTRATIVE REQUIREMENTS FOR SUBMISSION

This Section of these Specifications sets forth the administrative requirements of the HMO's proposal, including the Minimum Mandatory Requirements that must be satisfied to qualify an HMO to be considered for selection. The Department in consultation with the JLMC will accept Proposals only from qualified HMOs and will consider for evaluation and selection purposes only those Submissions the Department determines to be in compliance with the requirements set forth in this Section III.

The HMO's Submission must respond to all of the following items as set forth below in the order and format specified and using the forms set forth in these Specifications. Additional details pertaining to the required forms are found in Section II.B, Compliance With Applicable Rules, Laws, Regulations & Executive Orders, and Section III.

The Submission must contain the following information, in the order enumerated below:

A. Formal Offer Letter

The HMO must submit a formal offer in the form of the **"Formal Offer Letter"** as set forth in **Exhibit I.S**. The formal offer must be signed and executed by an individual with the capacity and legal authority to bind the HMO in its offer to the State. Each of the two copies of the HMO's Submission marked "ORIGINAL" requires a letter with an original signature, the remaining copies of the HMO's Submission to all Contact members in **Exhibit II.E.1** may contain photocopies of the signature. HMOs must accept the terms and conditions set forth in **Section VI** "**Draft Contract,"** of these Specifications and Appendices A, B, C and D and agree to enter into a contractual agreement with the Department containing, at a minimum, the terms and conditions identified in these Specifications and Appendices as cited herein. (**Note**: Appendix A, "Standard Clauses for New York State Contracts" is basically a compilation of statutory requirements applicable to all persons and entities contracting with NYS and therefore has been deemed to be non-negotiable by the Offices of the Attorney General and the NYS Comptroller. Appendix B, "Standard Clauses for All DCS Contracts," Appendix C, "Third Party Connection and Data Exchange Agreement," and Appendix D "Participation by Minority Group Members and Women With Respect to State Contracts:

Requirements and Procedures" are compilations of standard clauses/requirements for the contracts and also are non-negotiable.) If an HMO proposes to include the services of a Key Subcontractor(s) or Affiliates(s), the HMO shall be required to assume responsibility for those services as "Prime Contractor." The Department will consider only the Prime Contractor in regard to contractual matters.

B. Minimum Mandatory Requirements

The Department will only accept Submissions from HMOs that attest and demonstrate through current valid documentation to the satisfaction of the Department that the HMO meets the Specification's Minimum Mandatory Requirements set forth herein this Section III.B. At this part of its Proposal, the HMO must submit a completed **Exhibit I.T "HMO Attestations Form"** representing and warranting that the HMO:

1. Possesses, as of the Submission Due Date, the legal capacity to enter into a contract with the President of the Civil Service Commission ("Commissioner");

2. As of the Submission Due Date, is (1) licensed to transact accident and health insurance business in New York State in accordance with Article 44 of the Public Health Law, and/or (2) subject to Article 43 of the New York State Insurance Law, and/or (3) certified/licensed in accordance with the certification and oversight jurisdiction imposed by another state where applicable. In the case of an HMO proposing a Service Area in both New York and New Jersey, the New Jersey benefits must provide the same plan as New York and comply with requirements of the Specifications and federal law;

3. In operation as a going concern, as cited in Section III. B.2 of these Specifications, at least two (2) years prior to the Submission Due Date set forth in Section II.A.1 of these Specifications;

4. as of Submission Due Date, must be accredited by the National Committee on Quality Assurance (NCQA**)** and/or Utilization Review Accreditation Committee (URAC). Submit current status of the NCQA and/or URAC ranking;

5. Acknowledges and agrees that it must have the required certification for its requested Service Area as cited in Section III B.2 of these Specifications on or before the Notification of Approval/Disapproval Date set forth in Section II.A.1 of these Specifications;

6. Agrees to accept all determinations of eligibility as made by the Department and must provide a rider that is identical to the NYSHIP eligibility criteria presented in Section IV.A and **Exhibit II.C** of the Specifications;

7. Agrees to use the enrollment data transmission protocol and encryption method stipulated by the Department. The current data transmission protocol must be Secure FTP, and the current encryption methodology must be PGP or as otherwise specified by the Department. Secure FTP must be compatible with the Open SSH implementation of Secure FTP. Further, the HMO must agree to execute the Department's Third Party Connection Agreement and Third Party User Agreement and their amendments as required and any other agreement or protocol required by the Department to ensure the security of its data transmissions;

8. will provide coverage to both NYSHIP primary and Medicare primary enrollees and dependents that comply with the requirements of the Specifications throughout the term of the agreement. If the HMO has an approved Medicare Advantage Plan with Part D coverage in a Commercial Plan service area it MUST offer the Medicare Advantage Plan to Medicare primary enrollees. HMOs cannot offer a Plan that provides coverage to Medicare eligible enrollees only;

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9. ~~will offer a benefit design with essential health benefits that offers the same level of benefits as an allowable benchmark, which is Oxford. If the HMO does not use Oxford as a benchmark it must provide a rider to include the same essential benefits as Oxford. State the benchmark plan that the HMO has selected; and~~

10. Will accept a signed and valid NYSHIP Authorization for Release of Protected Health Information form, or any alternative form developed during the contract term, for the purpose of the release of Protected Health Information to the Department.

Note: Any HMO that fails to satisfy any of the above Minimum Mandatory Requirements shall be eliminated from further consideration.

C. Exhibits

At this part of its Proposal, the HMO must complete and submit the various Exhibits specified in Section II.B and Section III of these Specifications, in satisfaction of the regulatory requirements described therein. A listing of the required Exhibits is set forth below:

Exhibit Name	Exhibit #
Submission Requirement Checklist	**Exhibit I.A**
MacBride Statement and Non-Collusive Bidding Certification	**Exhibit I.D**
EEO Staffing Plan (Form EEO-100)	**Exhibit I.G**
Offeror's Affirmation of Understanding and Agreement	**Exhibit I.K***
Compliance with Public Officers Law Requirements	**Exhibit I.M**
Compliance with Americans with Disabilities Act	**Exhibit I.N**
MWBE Utilization Plan (form MWBE-100)	**Exhibit I.O**
Offeror's Certification of Compliance Pursuant to State Finance Law §139-k	**Exhibit I.P**
MWBE and EEO Policy Statement	**Exhibit I.Q**
Formal Offer Letter	**Exhibit I.S**
HMO Attestations Form	**Exhibit I.T**
Key Subcontractors or Affiliates	**Exhibit I.U.1**
NYS Supplier & Subcontractor	**Exhibit I.U.2**
Compliance with NYS Workers' Compensation Law	**Exhibit I.W**

*Note If not already provided to the Department prior to Proposal submission, the HMO must include a completed Exhibit I.K, Offeror's Affirmation of Understanding and Agreement."

D. Key Subcontractors or Affiliates

At this part of its Submission, the HMO must provide a statement identifying all Key Subcontractors or Affiliates, if any, that the HMO will be contracting with to provide HMO Program services and must, for each such Key Subcontractor or Affiliate identify, complete and submit **Exhibit I.U.1** "Key Subcontractors or Affiliates":

1. Provide a brief description of the services to be provided by the Key Subcontractor or Affiliate; and

2. Provide a description of any current relationships with such Key Subcontractor or Affiliate and the clients/projects that the HMO and Key Subcontractor or Affiliate are currently servicing under a formal legal agreement or arrangement, the date when such services began and the status of the project.

The HMO must indicate whether or not, as of the date of the HMO's Proposal, a subcontract (or shared services agreement) has been executed between the HMO and the Key Subcontractor or Affiliate for services to be provided by the Key Subcontractor or Affiliate relating to these Specifications. If the HMO will not be subcontracting with any Key Subcontractor(s) or Affiliate(s) to provide HMO Program services, the HMO must provide a statement to that effect.

E. Financial Statements

At this part of its Proposal, the HMO must provide a copy of the HMO's last issued GAAP annual audited financial statement. A complete set of statements, not just excerpts, must be provided. Additionally, for each Key Subcontractor or Affiliate, if any, that will provide any of the HMO Program services, provide the most recent GAAP annual audited statement. If the HMO, or a Key Subcontractor or Affiliate, is a privately held business and is unwilling to provide copies of their GAAP annual audited financial statements as part of their Proposal, the HMO/Key Subcontractor/Affiliate must make arrangements for the Procurement evaluation team to review the financial statements. **Note:** If financial statements have not been prepared and/or audited, the HMO/Key Subcontractor/Affiliate must provide the following as part of its Proposal: a letter from a bank reference attesting to the HMO/Key Subcontractor/Affiliate's financial viability and creditworthiness. (Note: For purposes of this reference, the HMO may not give as a reference, a parent or subsidiary company, a partner or an Affiliate organization.) The letter must include the bank's name, address, contact person name and telephone number and it must address, at a minimum, the following items:

1. a brief description of the business relationship between the parties (i.e., the HMO/Key Subcontractor/Affiliate and the bank), including the duration of the relationship and the HMO's current standing with the bank. For example: "*The (HMO/Key Subcontractor/ Affiliate's name) is currently and has been for "x" number of years a client in good standing";*

2. a description of any ownership/partner relationship that may exist between the parties, if any. (**Note:** One party cannot be the parent, partner or subsidiary of the other, nor can one party be an affiliate of the other); and,

3. any other facts or conclusions the bank may deem relevant to the State in regard to the bank's assessment of the HMO/Key Subcontractor/Affiliate's financial viability and creditworthiness concerning the nature and scope of the Program Services, and the Parties' (i.e., Department, and the HMO or the HMO and Key Subcontractor or Affiliate) contractual obligations should the HMO be awarded the resultant contract.

HMOs must submit documentation supporting their most recent National Association of Insurance Commissioners (NAIC) Risk Based Capital Ratio including the current capital and desired capital used to calculate this ratio. Additionally, HMOs must submit their Standard & Poors Financial Strength rating or, if not rated by Standard & Poors, any other financial rating such as Moody's, AM Best's Insurance Financial Strength, Fitch Group or Weiss Ratings.

SECTION IV: PROGRAM REQUIREMENTS

A. NYSHIP Eligibility Requirements

Selected HMOs must accept all individuals determined by the Department to be eligible for services under the Agreement that results from these Specifications and may not enroll any individuals who have not been determined to be eligible by the Department. The Department will send the HMO eligible Dependents on the weekly enrollment file. An HMO may not independently add a Dependent who has not been determined by the Department to be eligible. The only time an HMO may disenroll an individual is when CMS tells an HMO to disenroll the individual due to other coverage. In this situation, the HMO must notify the Department within five (5) Business Days of notification by CMS.

Individuals who may enroll in an HMO through NYSHIP include Employees and Retirees of the State of New York and Participating Employers (PEs) who live or work in the HMO's NYSHIP approved Service Area, as well as their Dependents. Persons who have primary coverage with Medicare, who **reside** in the HMO's Medicare Advantage Plan NYSHIP approved Service Area are also eligible Enrollees under the NYSHIP. Dependent eligibility is subject to the collective bargaining process and may change as a result of labor/management negotiations or changes to State/Federal law.

The HMO must agree to accept all determinations of eligibility as made by the Department and must provide an insurance rider that includes all NYSHIP Dependent eligibility provisions. A draft 2016 NYSHIP Eligibility Rider is included as **Exhibit II.C "2016 NYSHIP Dependent Eligibility Rider"** of these Specifications and provides the NYSHIP Dependent eligibility requirements. The HMO must include this Rider, approved by the New York State Department of Financial Services (DFS), as part of its proposed benefit package.

1. The following summarizes NYSHIP's Dependent eligibility provisions:

    a. An Enrollee's Spouse, including a legally separated spouse. If an Enrollee is divorced or the marriage has been annulled, the former spouse is not eligible, even if a court orders the Enrollee to maintain coverage.

    b. An Enrollee's Domestic Partner. The Enrollee may cover a same or opposite sex Domestic Partner as a Dependent under NYSHIP. A domestic partnership, for eligibility under NYSHIP, is one in which the Enrollee and a partner are 18 years of age or older, unmarried and not related in a way that would bar marriage, living

together, involved in an exclusive mutually committed relationship and financially interdependent. To enroll a Domestic Partner, the Enrollee must have been in the partnership for six months and be able to provide proof of 6 months of cohabitation and 6 months of financial interdependence. There is a one year waiting period from the termination date of the Enrollee's previous partner's coverage before the Enrollee may again enroll a domestic partner.

c. An Enrollee's Children under 26 years of age. This includes the Enrollee's natural children, legally adopted children, children in a waiting period prior to finalization of adoption, stepchildren and children of the Enrollee's domestic partner who are covered without regard to financial dependence, residency with the Enrollee, student status or employment. Other children who reside permanently in the Enrollee's household, who are chiefly dependent on the enrollee and for whom the Enrollee has assumed legal responsibility, in place of the parent, also are eligible; the Enrollee must verify eligibility and provide documentation to the Enrollee's Employer upon enrollment and every two years thereafter. For "other children," legal responsibility by the Enrollee must have commenced before the child reached age 19.

d. An Enrollee's Child with Military Service. For purposes of eligibility for health insurance coverage as a child, up to four years for service in a branch of the U.S. Military between the age of 19 and 25 may be deducted from the Dependent child's age provided that the Dependent child returns to school on a full time basis, is unmarried and is otherwise not eligible for employer group coverage. The Enrollee must be able to provide written documentation from the U.S. Military. Proof of full-time student status at an accredited secondary or preparatory school, college or other educational institution will be required by the HMO for verification.

e. An Enrollee's unmarried Dependent child 26 or over who is incapable of self-sustaining employment by reason of mental illness, developmental disability, mental retardation as defined in the mental hygiene law, or physical handicap, who became so incapable prior to attainment of the age at which Dependent coverage would otherwise be terminated, are eligible.

The HMO will be responsible for making clinical Disabled Dependent Determinations for Dependent children with a disability who are enrolled in the HMO. Disabled Dependents of NYSHIP Enrollees are entitled to be covered under the Enrollee's family coverage beyond the normal age-out limits if those Dependents are incapable of self-sustaining employment. As part of the Disabled Dependent Determination, an Application for Coverage for your Disabled Dependent Child for Medical, Dental and/or Vision Coverage (Form PS-451), Exhibits II.J and II.J.1.is completed by the Enrollee, the Dependent's physician and the Enrollee's Employer, and then evaluated by the HMO to determine if the Dependent is disabled. All determinations are subject to re-review by the HMO on a periodic basis. The following guidelines must be used for all Disabled Dependent Determinations:

If improvement of the Dependent's condition is:

- "Expected," the case will be normally reviewed within six to eight months, unless the HMO determines a need for a more frequent review.
- Possible," the case will be normally reviewed no sooner than three years, unless the HMO determines a need for a more frequent review.
- "Not expected," the case will normally be reviewed no sooner than seven years, unless the HMO determines a need for a more frequent review.

Once the HMO makes the disability determination, the PS-451 must be sent to the Department to confirm eligibility. If the disabled Dependent is eligible, the HMO will receive confirmation of eligibility through the weekly enrollment transaction file.

The HMO must accept determinations of total disability under the above standards that were made by other NYSHIP plans provided that there has not been a break in coverage between plans.

2. The following summarizes NYSHIP's "Young Adult" eligibility provisions:

The Enrollee's unmarried children, including adopted children and step children through age twenty-nine ("Young Adult"), who live, work, or reside in New York State or the Service Area of the HMO's network-based NYSHIP policy and who:

a. Are not insured by or eligible for coverage through the Young Adult's own employer-sponsored health plan, whether insured or self-funded, provided that the health plan includes both hospital and medical benefits, and
b. Are not covered under Medicare;

are eligible to enroll for coverage under the Young Adult Option.

In addition:

c. the Young Adult need not live with the parent, be financially dependent upon the parent, or be a student;
d. the Young Adult's eligibility for health insurance coverage through a former employer under federal COBRA or State continuation coverage does not disqualify the Young Adult from electing the young adult option under NYSHIP;
e. the Young Adult's children are not eligible for coverage under the Young Adult Option, but may be eligible for health insurance coverage under other programs, such as the Child Health Plus program;
f. the parent need not have family coverage for the young adult to enroll in the Young Adult Option; and
g. the Young Adult need not have been previously covered under the parent's NYSHIP coverage.

There is no Employer contribution toward the cost of the Young Adult Option. The Young Adult or his/her parent is required to pay the full cost of premium for individual coverage for the NYSHIP option selected by the Young Adult.

The HMO must accept all NYSHIP determinations of eligibility for enrollment in Young Adult coverage. Coverage of a Young Adult as described in this paragraph shall consist of coverage which is identical to the coverage provided to a NYSHIP Enrollee. If the parent is enrolled in the HMO, NYSHIP coverage is available for the Young Adult who lives, works or resides outside of the parent's HMO Service Area but within New York State. However, the parent of the Young Adult need not be enrolled in the HMO in order for the Young Adult to have NYSHIP coverage through the plan in which he/she is enrolling as long as the Young Adult lives, works or resides in that HMO's Service Area. The parent must only be a NYSHIP Enrollee (including under COBRA).

Coverage for Young Adult shall terminate on the first of the following to occur:

a. the Young Adult voluntarily terminates coverage;
b. the Young Adult's parent is no longer enrolled in NYSHIP;
c. the Young Adult no longer meets the eligibility requirements for the Young Adult Option as outlined above;
d. the NYSHIP premium for the Young Adult is not paid in full within the 30-day grace period; or
e. the group or group remittance policy or contract is terminated and not replaced.

The Dependent child does not have a separate federal COBRA or New York State continuation right at the time coverage through this Young Adult option terminates.

A Young Adult and his/her parent have the following opportunities to enroll in the Young Adult Option:

a. "When the Young Adult Would Otherwise Lose Coverage Due to Age Coverage" may be elected within 60 days of the date that the Young Adult otherwise would lose eligibility for coverage as his/her parent's Dependent due to age. Coverage is retroactive to the date that the Young Adult otherwise would have lost coverage due to age. This is the only circumstance in which the Young Adult Option will be effective on a retroactive basis;

b. "When the Young Adult is Newly Qualified Due to a Change in Circumstances Coverage" may be elected within 60 days of the date that the Young Adult newly meets the eligibility requirements for the Young Adult Option, such as due to loss of coverage through his/her employer; moving his/her residence into New York State; or getting divorced. It is possible for a Young Adult to elect coverage under this option on multiple occasions due to changes in the Young Adult's eligibility over time. Coverage will be effective prospectively, no later than 30 days after NYSHIP receives written notice of the election and payment of the first premium; and

c. "During the Young Adult Option Annual 30-Day Open Enrollment Period Coverage" may be elected during the Young Adult Option's annual 30-day open enrollment period which is expected to coincide with NYSHIP's Annual Option Transfer Period. Coverage under this option will be effective prospectively.

B. Required Benefit Package

HMOs must provide at least the minimum benefits as described in the sections below.

1. Commercial Plan Benefit Requirements

a. General Requirements

(1) Must be fully ACA-compliant.

(2) HMOs may specify copayments or coinsurance, as part of their benefit package; however, copayments or coinsurance for inpatient hospital care and **annual deductibles will not be permitted.**

(3) Coverage must comply with all services required by Federal and NYS laws and/or regulations in addition to the following enhanced coverage:

Prosthetic Devices: Medically necessary prosthetic devices that aid body functioning or replace a limb or body part in order to correct a defect of body form or function must be covered. Examples of prosthetic devices include but are not limited to: artificial limbs, pacemakers, heart valve replacements, artificial joints, external breast prostheses and ostomy supplies. Replacements, repairs and maintenance not provided for under a manufacturer's warranty or purchase agreement must be covered when functionally necessary;

Durable Medical Equipment: Medically necessary Durable Medical Equipment (DME) that can withstand repeated use and is primarily used to serve a medical purpose must be covered. Examples of DME include but are not limited to: wheelchairs, walkers, respiratory equipment, and oxygen supplies. Replacements, repairs and maintenance, not provided for under a manufacturer's warranty or purchase agreement must be covered when functionally necessary;

Orthotic Devices: Medically Necessary custom-made orthotic devices used to support, align, prevent or correct deformities or to improve the function of the foot must be covered. Orthopedic shoes and other supportive devices for treatment of weak, strained, flat, unstable or unbalanced feet should not be included for coverage. Replacements, repairs and maintenance not provided

for under a manufacturer's warranty or purchase agreement must be covered when functionally necessary;

Prescription Drugs: Medically necessary federal legend and state restricted drugs, compounded medications and injectable and self-injectable medications, contraceptive drugs and devices, fertility drugs and enteral formulas must be covered. (The copayment for self-injectable drugs, including fertility drugs, must be the same as the copayment for other covered drugs, except drugs limited to 30-day supply at dispensing.) No annual or lifetime maximum permitted; and

Gender Identity Disorder Services: Diagnosis and treatment of Gender Dysphoria must be covered.

(4) Benefits for services not listed as minimum benefit requirements pursuant to Section IV.B.1. above, such as routine/preventive dental services and/or the provision of eyeglasses for routine vision correction may be included in the HMO's standard package. However, riders that include an additional charge for such benefits will not be accepted. Exclusions and other limiting language are subject to modification by the Department in consultation with the JLMC.

b. Use of Standard Contracts and Riders

HMOs may propose to meet the minimum benefit requirements set forth in these Specifications through the use of a standard contract, or through a combination of a standard contract and riders. **Proposals that do not meet the minimum benefits will be rejected by the Department in consultation with the JLMC.**

All HMOs must submit benefit offerings no later than the Proposal Due Date shown in Section II.A.1 of these Specifications. No change in benefits will be accepted after the Proposal Due Date unless the change is a mandate from a regulatory authority or requested by the Department in consultation with the JLMC.

HMOs are free to propose to the Department the standard contract that the HMO believes best meets the needs of NYSHIP Enrollees. The proposed standard contract must meet the minimum benefit requirements; however, the HMO may provide benefits in excess of the minimum benefits required by these Specifications. The standard contract must be approved for offering by the appropriate regulatory

authority as of the Proposal Due Date shown in Section II. A.1 and **Exhibit II.A** - Timeline of Key Events - of these Specifications.

Riders shall be accepted by the Department in consultation with the JLMC only if such rider is necessary to bring the standard contract proposed by the HMO into conformity with the minimum benefit requirements. It is **not** the intent of the Department to purchase from HMOs riders that increase the benefit package to a level above the minimum requirements set forth in the Specifications. **Riders that provide benefits not required by the minimum benefit requirements, or which provide benefits in excess of the minimum benefit requirements, may be rejected by the Department in consultation with the JLMC.**

The following example illustrate acceptable and unacceptable Proposals:

Example:
The Specifications do not require vision care benefits for adults. A standard contract that includes vision care benefits for adults is acceptable. A rider that provides vision care benefits for adults is not acceptable unless the rider is included at no additional cost to NYSHIP.

2. **Medicare Advantage Plan Benefit Requirements**

HMOs must comply with CMS guidelines and in addition the benefit levels provided must meet or exceed the minimum benefits as set forth in Section IV.B.1.a and IV.B.1.b above. Other benefits above the minimum benefits must be comparable to those provided to non-Medicare primary Enrollees. **Instances where Federal Law and/or regulation preclude an HMO from complying with this requirement must be clearly identified in the HMO's Proposal.**

If an HMO is submitting a Medicare Advantage (MA) Plan with Prescription Drug coverage, the MA Plan must be CMS approved for all counties in the proposed Service Area.

An HMO may submit only one product for Medicare primary Enrollees, either the Commercial Plan which coordinates with Medicare and includes prescription drug coverage equal to, or better than, Medicare Part D or a Medicare Advantage with Prescription Drug Plan.

An HMO may not submit a Medicare Advantage product without submitting a non-Medicare Advantage (Commercial) product as well. The Department will **not** accept a Submission that provides coverage only to Medicare eligible Enrollees.

An HMO must provide Part D coverage at an equal level to the Commercial Plan in the coverage gap.

An HMO whose ranking falls below 3 stars and whose enrollment is frozen by CMS would be permitted to keep an Enrollee that otherwise would have aged-into the Medicare Advantage Plan in the Commercial Plan until CMS lifts the enrollment freeze.

C. Service Accessibility

1. General

The Department and the JLMC consider access to services to be one of the most critical aspects of an HMO's overall quality of care and satisfaction to members. Accordingly, HMOs shall be expected by the Department and the JLMC to ensure compliance with the access standards set forth below.

Although not a requirement of the Specifications, in recognition of the unique services offered by various State-run facilities located throughout New York State, the Joint Labor Management Committees on Health Benefits continue to encourage HMOs to include these hospitals (e.g., Roswell Park Cancer Institute, Helen Hayes Hospital) in their network if such hospitals are within the HMO's proposed Service Area. This request recognizes the need for State facilities to satisfy the same stringent credentialing criteria as any other network provider.

2. Twenty-four (24) Hour Coverage

Consistent with New York State Laws and/or regulations, HMOs must provide coverage to members, either directly or through their Primary Care Physician (PCP), twenty-four (24) hours a day, seven days a week. HMOs also must instruct their members on what to do to obtain services after regular business hours.

3. Days to Appointment

HMOs must abide by the following appointment standards:

a. Emergency medical or mental health and substance abuse problems, immediately;

b. Urgent medical or mental health and substance abuse problems, within 24 hours of request;

c. Non-urgent "sick visits," within 48 to 72 hours, as clinically indicated;

d. In-Plan, non-urgent mental health and substance abuse visits, within two (2) weeks;

e. Adult baseline and routine physicals and non-urgent or preventive care visits, within twelve (12) weeks;

f. Initial prenatal visits, within three (3) weeks during the first trimester and two (2) weeks thereafter; and

g. Initial visit for newborns to their PCP, within two (2) weeks of hospital discharge.

D. Communications Material Requirements

The Department and the JLMC place a high priority on ensuring that NYSHIP Enrollees are able to make informed choices when selecting a health plan during the annual Option Transfer Period. Accordingly, all HMOs must abide by the following communications guidelines.

1. General Requirements

All Enrollee material as well as all communications material must be sent to all members of the JLMC prior to distribution to State Enrollees. This includes both annual benefit plan communications and updated communications distributed by the HMO throughout the year.

a. All communication material must present a clear, factually correct, complete and easily understood description of the benefits available through the HMO. Any incorrect or incomplete communications sent by the HMO to NYSHIP Enrollees related to required communication materials (Section IV.D.2 of the Specifications) must be corrected and re-sent at the HMO's expense. Benefits offered and/or received prior to this correction must be covered until Enrollees receive the correction notification or, at the discretion of the Department in consultation with the JLMC, for the balance of the Plan Year.

b. Communication materials may promote the HMO but must not make general or specific comparisons to any other NYSHIP option. HMOs will not be permitted to make reference to the Empire Plan or plan specific comparisons to other HMOs. For example, an HMO may not state that they "serve more NYSHIP members than any other HMO that participates in NYSHIP."

c. Communication activities may not discriminate on the basis of a potential member's health status, prior use of health service, or need for future health services.

d. HMOs may not engage in communication practices or distribute communication materials that mislead or confuse NYSHIP enrollees by promoting benefits for which the NYSHIP Enrollee is not covered.

e. The premium cost of all NYSHIP health plan options will be communicated to Enrollees by the Employee Benefits Division, Department of Civil Service, and shall not be included in any communication materials distributed by any HMO, with the exception of rate filing notifications required by the NYS Department of Financial Services.

f. Visual presentations of Enrollees in the HMO communication material must be representative of the diversity within the New York State enrollment.

2. <u>Required Communications Materials</u>

The Department in consultation with the JLMC requires that the benefits offered by an HMO be fully described to the HMO's Enrollees. Accordingly, those HMOs that participated in the NYSHIP in 2015 and new HMOs that are selected by the Department in consultation with the JLMC to participate in 2016 must provide the following documentation:

All HMOs are required to submit drafts of the Cover Letter, federally mandated Summary of Benefits and Coverage (SBC), Schedule of Benefits, and Side-by-Side Comparison of Benefit Changes in both hard copies and PDF with their Proposals, as set forth in Exhibit II.A - Timeline of Key Events - of these Specifications. In addition, those HMOs that participated in NYSHIP in 2015 are required to submit drafts of the Side By Side Comparison of Benefits in both hard copies and PDF with their Proposals, as set forth in Exhibit II.A - Timeline of Key Events - of these

Specifications. HMOs that did not participate in NYSHIP in 2015 will not be required to furnish the Side By Side Comparison with their Proposals. A PDF copy of the final Schedule of Benefits and applicable Side By Side Comparisons will be required to be provided to the Department and all members of the JLMC.

The Department may amend the mailing date(s) of communication materials for Retiree groups should it be necessary to coordinate these mailing(s) with Department communications.

The required communication material, after approval by the Department and JLMC, will require that the Cover Letter, Schedule of Benefits, and the applicable Side-by-Side Comparison of Benefit Changes be transmitted to Enrollees in one mailing. **Final versions of these mailings must be sent to all JLMC Contact Members listed in Exhibit II.B one (1) week prior to distribution to Enrollees.**

No premium or rate information, of any kind, shall be included in the required communications materials sent to NYSHIP Enrollees. HMOs may, however, direct NYSHIP Enrollees to rate information provided by the Department. Rate information is provided on the Department's web site at www.cs.ny.gov.

a. Cover Letter

Cover letters for the Communications Materials mailing to HMO members must be submitted as part of the HMO's Proposal. **All HMOs must include the following statement in the Cover Letter, "Your Eligibility Guidelines may be different from those guidelines listed in the contract. Please refer to your NYSHIP General Information Book for these guidelines or visit the New York State Department of Civil Service's web site at** www.cs.ny.gov."

b. Summary of Benefits and Coverage

The HMO must comply with ACA to produce, revise, distribute and translate, upon request, a Summary of Benefits and Coverage (SBC) that accurately describes the NYSHIP group benefits and coverage. The SBC must be provided to the Department in an electronic format as a PDF document no later than 30 days before the beginning of each Plan Year for posting to the Department website. The HMO must distribute a SBC to any eligible Employee or Retiree contacting the HMO or the Department to request a copy in accordance with

ACA requirements for timely distribution. Annually at plan renewal or upon material modification of the SBC, the HMO must provide notice to all current Enrollees via a postcard, plan materials, or other Federally-compliant means of notification of how to view or obtain a copy of the SBC from the HMO.

c. Schedule of Benefits

The Schedule of Benefits must include, but not be limited to, applicable copayments and/or coinsurance levels. The Schedule of Benefits must also include a comprehensive description of limitations and exclusions. A separate Schedule of Benefits is required for the Commercial HMO Plan and the Medicare Advantage Plan, if offered in the HMO's Submission. A sample document is included as Exhibit II.E.

d. Side by Side Comparison of 2015 to 2016 Benefits

HMOs that participate in NYSHIP in 2015 are required to submit a Side by Side Comparison of Benefits that lists changes in the benefits offered to Enrollees from 2015 to 2016. Such changes include, but are not limited to: copayments; new benefits; number of days of a prescription supply; delivery of services; and provider networks. **In the event there are no changes in the benefits offered, the HMO will be required to mail to members an affirmative statement that states that there are no changes in either the benefits offered or delivery of services from the previous year**. The Side by Side Comparison of Benefits must be provided to the Department in an electronic format as a PDF document no later than 30 days before the beginning of each plan year for posting to the Department website. A sample document is included as Exhibit II.F.

Note: Any changes made to these documents require resubmission to the Department for review and approval. These documents must be approved by the Department in consultation with the JLMC, before they are printed and mailed to HMO members.

3. CHOICES Guide

To assist NYSHIP Enrollees in choosing a health insurance plan during the annual Option Transfer Period, the Department will develop a Health Insurance Choices guide. This guide will contain uniformly formatted pages for each plan offering

(Commercial and Medicare Advantage, if offered) so that Enrollees may easily compare the benefits offered. The information to be included in these Choices pages is outlined in detail in **Exhibit III.A "Choices Guide."**

All HMOs submitting Proposals will be required to access an online data interface (HMO ePage) through which plan benefit details will be electronically submitted to the Department. HMOs will have unlimited electronic access to their own database information for one week (likely in late-May) after which time, access will be denied. In advance of this access period, you will receive an email from the Employee Benefits Division Communications Unit containing detailed instructions. Additionally, HMOs are required to print a hard copy of their Choices page information from the database and submit it with their Proposal. This process will enable the Department to implement their online health benefit plan comparison tool.

HMOs that participate in NYSHIP during 2015 will be able to edit selected fields of their 2015 Choices page content in the electronic templates to accurately describe plan benefits for the 2016 Plan Year. HMOs that did not participate in NYSHIP during 2015 will access blank templates to electronically submit their Choices page information.

The Department's Employee Benefits Division Communications Unit will use the electronic information submitted by each HMO to format a version of their pages for the Choices guide. HMOs will receive copies of their final Choices pages for sign off via e-mail from the Communications Unit.

4. <u>Optional Marketing Materials and Activities</u>

a. While HMOs may develop and distribute generic marketing materials to NYSHIP Enrollees who live or work in the HMO's approved NYSHIP Service Area, the materials must present the NYSHIP benefits. The Department will not provide any information to HMOs regarding the identification of eligible NYSHIP Enrollees or their mailing addresses. **Any optional marketing materials mailed by the HMO, including provider directories and newsletters, must be submitted to all JLMC Contact Members listed in Exhibit II.B**

b. HMOs may not provide potential NYSHIP members with giveaways as an inducement to enroll in the HMO.

c. HMOs are not permitted to conduct marketing activities at State work sites without prior approval of the Department. Requests for such activities must be submitted to the Department, Attention: Employee Benefits Division, Communications Unit, in writing with a copy to the Governor's Office of Employee Relations, Attention: Employee Benefits Management Unit. Marketing activities include, but are not limited to, participation in health fairs and information booths. HMOs may only distribute materials that provide specific information regarding the HMO or relate to general health care issues at such approved work site presentations. Items that do not meet these criteria and have no more than a nominal value may be distributed to NYSHIP Enrollees attending conferences and/or meetings that are not held at the work site.

d. If an HMO's benefit changes are expected to reduce premium costs, a notation may be included in the HMOs Optional Marketing Materials that certain benefit changes are expected to result in decreased premiums or to help limit premium increases; however, the language may not state how much premiums will decrease or how much savings may be realized.

E. Reporting

1. Complaint/Grievance/External Appeals

HMOs must maintain records of all complaints that have been unresolved for more than forty-five days (45) days. Such records shall include the actual complaint, all correspondence related to the complaint, and an explanation of the disposition of the complaint. The HMO must make these records available to the JLMC Contact Members listed in Exhibit II.B in searchable format upon request. All Enrollee identifying information must be redacted.

The Department requires HMOs to maintain a report summarizing the number of grievances filed for the most recent Plan Year, sorted by procedure type. The report must include the total number of grievances, the number of grievances upheld, overturned, modified or withdrawn. The HMO must make these records available to the JLMC Contract Members in **Exhibit II.B** upon request.

The Department requires HMOs to maintain a report summarizing the number of external appeals filed for the most recent Plan Year, sorted by procedure type. The

report must include the total number of external appeals, the number of appeals upheld, overturned, modified or withdrawn. The HMO must make these records available to the JLMC Contract Members in **Exhibit II.B** upon request.

The Department reserves the right to seek information immediately from an HMO pursuant to investigation of a particular member or provider complaint.

2. Member Satisfaction Surveys

Whenever an HMO conducts a member satisfaction survey that includes NYSHIP Enrollees, the HMO must provide a copy of the survey and survey results electronically in searchable format within 30 days upon request from any JLMC Contact Member listed in **Exhibit II.B**

3. Medicare Advantage Plan Enrollments/Disenrollments

The HMO must notify the Department on a monthly basis of any members no longer eligible to be enrolled in the Medicare Advantage Plan for reasons identified by the HMO or CMS; including but not limited to, missing HICN, no Medicare Parts A and/or B. The Department must also be notified if an Enrollee moved out of the HMOs Service Area, or is deceased.

4. Federal Medical Loss Ratio (MLR)

The HMO must file its Medical Loss Ratio (MLR) with the federal government by June 1 each year. In those instances where the HMO fails to meet the required MLR threshold for community rated large group contracts during the preceding calendar year, rebates must be paid to NYSHIP by August 1 of that calendar year. In addition, notification must be provided to both Enrollees and the employer group in instances where the MLR threshold has not been met.

5. Low Income Subsidy (LIS)

The HMO must submit an LIS report to the Department no later than fifteen (15) Business Days from the date the HMO receives the subsidy payment from CMS. The report must include the following information regarding payments made by the HMO to LIS Enrollees: Payment Date, Carrier ID, Benefit Plan, Benefit Program, Last Name. First Name, DOB, HICN, Member ID, SSN, # of Payments, Payment Start

Date, Payment End Date, ADJ Reason Code, ADJ Reason Code Description, and LIS Premium Subsidy Amount.

6. Healthcare Effectiveness Data and Information Set (HEDIS) Reports

Consistent with State and Federal regulations, HEDIS reports need to be completed on a timely basis.

F. Submission of Premium Rates

Those HMOs selected by the Department and the JLMC for participation in the NYSHIP in 2016 shall be required to submit premium rates to the Department by the date specified in Exhibit II.A and in accordance with Exhibits II.M, II.M.1 and II.M.2. In order to prepare for the annual health insurance Option Transfer Period, NYSHIP premium rate submissions are due by September 1 of each Calendar Year. The premium rates shall be accompanied by the HMO's most recent available year-to-date loss ratio for the community pool in which NYSHIP Enrollees are included. The premiums submitted to the Department shall be guaranteed rates under the NYS Department of Financial Services (DFS) regulation 11 NYCRR 52.42(b). The premium rates guaranteed shall be the presently prevailing approved or filed premiums or the HMO's best estimate of the expected average filed or approved premium rates for the following year adjusted by any prospective or retrospective adjustments required for guaranteed premium rates under 11 NYCRR 52.42(b). The premium rates for those Enrollees who reside out of state must be the same as NYS premium rates filed with the NYS DFS. Upon request, the HMO shall provide detailed information to support the quoted premium rates.

Premium Rate Billing

NYSHIP rates are comprised of (1) the HMO's Community Rates associated with the JLMC approved benefits for the following Plan Year, as submitted to and approved by the NYS Department of Financial Services (DFS), (2) Medicare Rate Adjustments (if applicable); and (3) Prior Period Adjustments:

(a) Community Rates: The basis for NYSHIP rates are the HMO's Community Rates (basic contract rates and required benefit rider rates) for Plan Year for the specific Commercial Plan approved by the Department in consultation with the JLMC which have either been approved or are pending approval by DFS.

(b) Medicare Rate Adjustments: NYSHIP's rate structure and billing system do not differentiate between Medicare and non-Medicare contracts. Regardless of Medicare status, Enrollees/Employers are billed and HMOs are paid the same rates. In accordance with CMS guidelines, the HMO is required to submit Medicare Rates to CMS for each Medicare Plan. The premium rates for the Medicare Plan approved by the JLMC will vary from the Commercial Plan rates; they are typically less than those for the Commercial Plan. The variances between the Commercial Plan rates and the Medicare Rates are recognized in the NYSHIP rate development calculation by means of adjustments to the Community Rates (see Exhibits II.M, II.M.1 and II.M.2 for details concerning Medicare Rate Adjustment calculations).

(c) Prior Period Adjustments: Typically the HMO's NYSHIP premium rate submission will include Community Rates that are pending approval by DFS. The rates eventually approved by DFS may be greater than or less than the Community Rates submitted to the Department and implemented for the Plan Year, resulting in insufficient or excess premiums paid to the HMO. As such, the NYSHIP premium rate calculations incorporate prior period adjustment calculations to recognize those differences between the submitted rates and the final approved DFS rates. The prior period adjustment calculations represent the differences in the initial and final rates multiplied by actual current year enrollment (as provided by the Department, taken from NYBEAS) and are applied as adjustments to the Community Rates (see Exhibits II.M, II.M.1 and II.M.2 for details concerning Prior Period Adjustment calculations.)

(d) Many HMOs submit for a rate adjustment to DFS with an effective date of January 1. Such rate adjustments are only applicable until another rate request is made and approved by DFS. For administrative purposes, an HMO may guarantee the payment of the implemented rate for one year and incorporate any approved mid-year rate changes into the prior period adjustment of the following year's guaranteed rate.

(e) For an HMO that has withdrawn from NYSHIP, within the first six months following its withdrawal, a prior period calculation will be required for each of administered NYSHIP options. Unlike the active HMO options in which prior period adjustments are applied to a future rate period, an aggregate

overpayment/underpayment is calculated for the withdrawn HMO. An aggregate credit, or negative, dollar amount would represent an overpayment of prior year premium by the Department to the HMO. An aggregate debit, or positive, dollar amount would represent an underpayment or prior year premium by the Department to the HMO. The period adjustment calculation is subject to review and approval by the Department. Upon written approval of the prior period adjustment calculation by the Department, any amount due, whether to the Department or the HMO, shall be paid within thirty days of written approval.

G. Administrative Requirements

1. Account Management Team

The Department expects the HMO's Account Management Team to have a proactive, experienced account leader and team in place who have the authority and expertise to coordinate the appropriate resources to:

(a) Ensure that there is a process in place to gain immediate access to appropriate corporate resources and senior management necessary to meet all HMO Program requirements and to address any issues that may arise during the performance of the Agreement;

(b) Be accessible and sufficiently staffed to provide timely responses (within 1 to 2 Business Days) to concerns and inquiries posed by the Department, or other staff on behalf of the JLMC regarding member-specific claims issues for the duration of the Agreement to the satisfaction of the Department; and

(c) Immediately notify the Department in writing of actual or anticipated events impacting the HMO Program requirements and/or delivery of services to Enrollees such as but not limited to, change from not-for-profit status to for-profit status, applications by another party to acquire control of the HMO, legislation, class action settlements, and operational issues.

2. Alternate Identification Number

The HMO is required to use an identification number other than Social Security Number on identification cards and other documents, forms or correspondence provided to users external to the HMO for its members enrolled through NYSHIP.

3. Hospital and Provider Group Changes

The HMO is required to advise all JLMC Contact Members (Exhibit II.B) of the potential withdrawal of any hospital or hospital group and of any significant provider group from the HMO's provider network as soon as the potential withdrawal is identified but no later than thirty (30) days prior to the group's potential withdrawal date.

4. NYSHIP Standing within HMO Customer Base

For the initial year of this contract term, the HMO is required to list its current ten largest employer groups, in descending order, by number of contracts for the organization's HMO business (i.e., large group HMO product) in which NYSHIP is included and indicate where NYSHIP enrollment would rank in the standings. On an ongoing basis, an HMO must advise the Department and JLMC Contact Members of any change to NYSHIP's position in the standings.

5. Key Subcontractor Changes

The HMO must provide all JLMC Contact Members (Exhibit II.B) with notification of changes in Key Subcontractors within thirty (30) days of such changes becoming final.

6. Region Configuration Changes

Prior notification of proposed changes in the configuration of Service Area counties, including a shift in counties within rating regions or the establishment of a new rating region(s), must be provided to the Department. This notification must be made to the Department at the time the request is submitted to the regulatory agency and noted as pending. The Department must be notified of the determination by the regulatory agency and upon approval be provided all pertinent information including, but not limited to, the effective date of the change. The HMO must also provide the Department and all JLMC Contact Members (Exhibit II.B) with copies of all notification materials for members impacted by the region switch prior to distribution to the members.

7. Website Access

The HMO must provide the Department and JLMC Contact Members responsible for administrative oversight of NYSHIP HMOs with access to website applications that

are available only to members. The HMO must also provide the URL of the main website and provide a dummy ID and password so that the Department may view the capabilities and user friendliness of the HMO's website.

8. Enrollment Data Transmission Requirement

A participating HMO must use the enrollment data transmission protocol and encryption method as stipulated by the Department. The current data transmission protocol must be Secure FTP, and the current encryption methodology must be PGP or as otherwise specified by the Department. Secure FTP must be compatible with the OpenSSH implementation of Secure FTP. Further, the HMO must agree to execute the Department's Third Party Connection Agreement and Third Party User Agreement and their amendments as required and any other agreement or protocol required by the Department to ensure the security of its data transmissions.

9. Release of Protected Health Information Requirement

The HMO must accept a signed and valid NYSHIP Authorization for Release of Protected Health Information form, or any alternative form developed during the contract term, for the purpose of the release of protected health information to NYSHIP representatives.

10. Medicare Secondary Payer Claim Administration (Applies only to Commercial Plan)

The HMO shall agree to follow the procedures set forth below in handling Medicare Secondary Payer (MSP) claims for any NYSHIP Enrollees and Dependents:

(a) Upon receipt of a demand letter directly from the Centers of Medicaid and Medicare Services (CMS) or indirectly from the Department for the payment of a claim that was paid primary by Medicare and for which CMS asserts NYSHIP coverage should have been primary, the HMO shall make its best effort to resolve the claim within the timeframe specified by CMS. This shall include working with the Department to determine the claimant's employment status at the time the claim was incurred, the amount of liability for such claim on the part of the HMO and the payment of any liability owed by the HMO to CMS;

(b) In the event an MSP claim is not settled with CMS within the timeframe specified in the demand letter, the Department reserves the right to have CMS

reimbursed the full amount of the claim by another NYSHIP plan administrator for the purpose of avoiding any interest charges and/or the offset of other Federal funds payable to the State. The HMO agrees that if it is determined that there was liability for payment of all or part of such claim including accrued interest, the HMO shall, upon the direction of the Department, repay to the NYSHIP insurer/third party administrator amounts paid on behalf of the HMO for MSP claims by the NYSHIP insurer/third party administrator;

(c) The HMO agrees to periodically report to the Department the status of any unresolved MSP claims, including both claims received directly from CMS or indirectly received from the Department. The timing and information to be included in such reports shall be specified by the Department. In addition, the HMO shall provide to the Department copies of any correspondence it sends to CMS regarding NYSHIP MSP claims; and

(d) In the event there is an offset of Federal funds payable to a New York State agency by the U.S. Treasury because of an unresolved MSP claim attributable to the HMO, the Department shall reimburse the agency for the offset using monies from the Health Insurance Fund and shall reduce the next premium payment to the HMO by the amount of such offset.

H. Medicare Part D Administration Requirements

Any HMO that does not offer a Medicare Advantage plan for NYSHIP's Medicare primary Enrollees/Dependents must comply with any and all requests from the Department for assistance and support, as the Department may require, to administer the Retiree Drug Subsidy. This includes all services necessary to ensure the correct and adequate interface between NYSHIP and the Centers for Medicare and Medicaid Services (CMS) including but not limited to:

1. Disclosing to CMS, on behalf of the Department, any information received from the Department or within the HMO's control, necessary for the Department to comply with the requirements of the Retiree Drug Subsidy Program (RDS). This includes providing and maintaining the accounting and enrollment records, as well as reporting documentation in the format and layout required by the Department, necessary to enable the Department to collect and verify the Retiree Drug Subsidy from CMS. The format will be provided to each NYSHIP participating HMO required

to provide RDS reporting. The format and layout may be revised at the discretion of the Department. If revised, the Department will provide revised layout documentation to the HMO. Required RDS tasks shall include but not be limited to:

(a) Submitting to the Department all records and reports in a manner, form, and timeliness acceptable to the Department as required support of the HMO's semi-annual submission of data to CMS in order to permit the Department's receipt of Retiree Drug subsidy payments on a semi-annually basis. Semi-annually data submission must be received by the Department no later than 45 days following the end of each semi-annual period;

(b) Submitting to the Department all records and reports in a manner, form, and timeliness acceptable to the Department as required support of the Department in its completion of the annual reconciliation process. The HMO must provide such records and reports in a manner, form, and timeliness acceptable to the Department; including but not limited to the tracking of Final Paid Claims and the submission of such information to CMS and the Department, in compliance with the RDS and the Department's requirements. The required data and records must be submitted to the Department as follows:

(1) All components of the annual RDS Reconciliation Reporting (Detail and Summary Payment files, Detail and Summary Payment file Record Counts and Cost Report), meeting the Department's specifications for completeness and accuracy, must be submitted to the Department no later than February 1 of the calendar year in which the Reconciliation is required to be filed with CMS;

(2) Except for those occurrences where a delay is due to a CMS regulation or requirement change impacting file production, should the HMO fail to provide all components of the required Reconciliation reporting by the specified due date, the HMO shall:

(a) remit to the Department $1,000 for each day beyond the due date that the required complete and accurate files are not provided to the Department; and

(b) indemnify the Department, in total, for any loss incurred should the HMO's failure to provide acceptable files and timely cost reporting to CMS result in any loss of Retiree Drug Subsidy reimbursement to the Department; and

(3) Once the Department has approved the annual RDS Reconciliation reporting, the HMO shall report such information to the CMS/Retiree Drug Subsidy website;

(c) Providing any assistance necessary to facilitate the Department's annual attestation of actuarial equivalence for the 2016 Plan Year and subsequent plan years. If applicable, the HMO must also cooperate with the Department to disclose to CMS and to NYSHIP's Part D-eligible Enrollees if the Department is unable to attest to the requisite actuarial equivalence;

2. The Department acknowledges and agrees that it shall be solely responsible for providing creditable coverage notices required with respect to Retiree Subsidy Program; and for determining whether enrolled individuals are qualifying covered retirees. The Department shall timely provide to the HMO, as verified by CMS prior to submission to the HMO, a list of qualifying covered retirees, as such list may be updated from time to time;

3. The HMO shall establish and implement proper safeguards against the unauthorized use and disclosure of the data exchanged pursuant to the administration of the NYSHIP Retiree Drug Subsidy as well as other aspects of the interface between NYSHIP and CMS. Such safeguards shall include the adoption of policies and procedures to ensure that the data obtained as a consequence of the NYSHIP Retiree Drug Subsidy application shall be used solely in accordance with applicable federal and State law. The HMO shall establish appropriate administrative, technical, procedural, and physical safeguards to protect the confidentiality of the data and to prevent unauthorized access to the data. The safeguards shall provide a level of security at least comparable to the level of security required of the Department by CMS, as specified by CMS. Any and all HMO Personnel interacting with this data must be advised by the HMO of the confidential nature of the information, the safeguards required to protect the information, and the

administrative, civil and criminal penalties for noncompliance contained in applicable federal laws;

4. The HMO acknowledges that the information furnished in connection with the administration of the NYSHIP Retiree Drug Subsidy is being provided to obtain federal funds. The HMO shall require all sub-contractors, including any plan administrators, if applicable, who submit information required by CMS to obtain the Retiree Drug Subsidy on behalf of NYSHIP to acknowledge that information provided in connection with the subcontract is used for the purpose of obtaining federal funds; and

5. The HMO acknowledges that its provision of services pursuant to these Specifications is subject to audit and evaluation by the Department of Health and Human Services pursuant to 42 CFR Subpart R or other authority as may be cited by the federal government, as well as by the State of New York pursuant to Appendix A and Appendix B of the resulting Agreement. The HMO shall comply with any record retention requirements required pursuant to 42 CFR SubPart R in this regard.

I. Medicare Advantage Enrollment Requirement

1. The MA Plan must follow the regulations and requirements set forth in the CMS Medicare Managed Care Manual (MMCM). The DCS is obligated to follow the rules and regulations in the MMCM as applicable to the employer group.

2. The HMO shall agree to follow the procedures set forth in Chapter 2 of the MMCM, Additional Enrollment Request Mechanisms for Employer/Union Sponsored Coverage , which allows an employer to group enroll its retirees using a group enrollment process that does not require submission of a signed application by the retiree. The HMO must agree to work in cooperation with the DCS to enroll individuals into the HMO's Medicare Advantage Plan as they become Medicare eligible in accordance with this process. The DCS will follow the process required of the employer group for providing information to each eligible Employee/Retiree in the timeframes defined in the MMCM, as follows:

   (a) The Department shall provide advance notice to eligible Enrollees and/or their eligible Dependents that Department intends to enroll them in MAPD Plan;

(b) The Department shall provide eligible Enrollees and/or their eligible Dependents notice that they may affirmatively opt-out of such enrollment; explain the process to opt-out; and any consequences to their benefits opting out would bring;

(c) The Department shall provide eligible Enrollees and/or their eligible Dependents a summary of benefits offered under the MAPD, an explanation of how to get more information about the MAPD, and an explanation on how to contact Medicare for information on other Medicare health plan options that might be available; and

(d) The Department shall provide eligible Enrollees and/or their eligible Dependents the information contained in the MMCM Chapter 2 Exhibit 2 Model Employer/Union Group Health Plan Enrollment Request Form under the heading "Please Read & Sign Below."

3. The Department shall include in the enrollment files submitted to the HMO all the information required for the HMO to submit an enrollment request to CMS, as set forth in the MMCM. The HMO must advise the DCS in writing of any changes to the required enrollment data at least 60 days prior to implementation. If the HMO receives notification of change from CMS less than 60 days in advance of implementation, the HMO must advise the DCS within 2 business days from receipt of such notification from CMS.

4. The HMO shall provide health care benefits to MAPD Members who receive covered services under the terms of this Agreement and the EOC. The HMO shall furnish MAPD identification cards and EOCs to each MAPD Member enrolled for MAPD Plan benefits.

5. The HMO shall agree to follow the procedures set forth in Chapter 2 of the MMCM, Optional Employer/Union MA Disenrollment Request Mechanism, which allows MA Plans to accept voluntary disenrollment elections directly from the employer or union without obtaining a MA disenrollment form from each individual and Group Disenrollment for Employer**/**Union Sponsored Plans, which allows an employer to group disenroll its MAPD Members using a group disenrollment process that does not require submission of a signed disenrollment form. The HMO must agree to work in cooperation with the Department to disenroll individuals out of the HMO's

Medicare Advantage Plan. The Department shall agree to follow the process and timelines required for group disenrollment as stated in the MMCM including notification of the group's intention to disenroll the MAPD Members and transmit the information required for the HMO to submit a disenrollment request to CMS. For individual voluntary disenrollment requests, the Department shall agree to submit disenrollment information which accurately reflects the Department's record of the disenrollment made by each MAPD Member according to the processes the Department has in place.

6. An HMO that offers a Medicare Advantage Plan through NYSHIP shall agree to notify the Department when CMS regulations impact the enrollment of a NYSHIP Enrollee or Dependent in the Medicare Advantage Plan. These events include but are not limited to the following:

   (a) CMS generated disenrollments that remove a NYSHIP Enrollee or Dependent from the Medicare Advantage employer group plan;

   (b) Disenrollments prompted by MAPD Member correspondence where CMS regulations require the HMO to act on the MAPD Member's request prior to the Department's notification through the Optional Employer/Union MA Disenrollment Request Mechanism or Group Disenrollment for Employer/Union Sponsored Plans;

   (c) Enrollments received from the Department through the Group Enrollment for Employer/Union Sponsored Plans that cannot be processed with CMS. These situations include but are not limited to cases where the NYSHIP Enrollee or Dependent is not enrolled in Medicare Part A or Part B, already enrolled in another Medicare Advantage Plan, has an invalid or missing HICN or does not reside in service area; and

   (d) Other situations not described above.

7. The HMO shall agree that the commencement of coverage for Enrollees and their eligible Dependents will begin as of the requested effective date, in accordance with CMS regulations, for any eligible NYSHIP who makes a timely application for enrollment.

8. Termination of coverage for a MAPD Member who is determined by the Department to be ineligible for benefits shall be reported to the HMO in the enrollment files transmitted on the scheduled basis. Upon the Department's notification to the HMO, the coverage of such MAPD Member shall terminate after providing notice to such MAPD Member in accordance with the Department's policy and CMS regulations. The Department is responsible for providing NYSHIP required notice; the HMO is responsible for providing CMS required notice. Retroactive disenrollment shall not be permitted except in specific situations approved by CMS.

9. An HMO that offers a Medicare Advantage Plan through NYSHIP must within forty-five (45) business days from the date the HMO receives the Low Income Subsidy (LIS) payment from CMS, send the LIS beneficiary the low-income premium subsidy payment.

10. The Department acknowledges that a Medicare Part D Late Enrollment Penalty (LEP) may be assessed to a MAPD Member when the Member has a break in Creditable Coverage. To determine the existence of Creditable Coverage, the HMO shall review the MAPD coverage history by viewing the MAPD NYSHIP enrollment record in the New York Benefits Eligibility & Accounting System (NYBEAS). For those MAPD Members whose NYBEAS record does not confirm continuous Creditable Coverage, the HMO shall send a Creditable Coverage attestation form to the MAPD Members in accordance with CMS regulations. The HMO shall bill the MAPD Member directly for any LEP assessed by CMS.

SECTION V: HMO REQUIRED SUBMISSION MATERIAL

Instructions for the HMO Required Submission Material

All questions must be answered. Responses to the questions asked in the HMO Required Submission Material should be provided in the exact format shown in the HMO Required Submission Material. All documents must be named exactly as they appear in the Specifications and be in a searchable format. The website contains a file in Microsoft WORD format that may be used by the HMO for its response and the forms that must be completed. Where there is a discrepancy, the PDF document contained on the website is the controlling document. Any attachment(s) submitted in response to a question should be clearly labeled with the part and question number to which it refers and inserted in the binder in the appropriate order. Each page of an HMO's response including completed forms and any attachments should be clearly labeled with the HMO's name. HMOs are cautioned to submit only those materials that directly respond to the question asked.

Required Documents:

1. **Certificate to Operate:** Include a copy of the Certification to operate within an approved Service Area and the ability to provide comprehensive hospital, medical and prescription drug benefits for covered Enrollees as applicable under Insurance Law Article 43 and /or Public Health Law Article 44.

2. **NYSHIP Medicare Advantage Plan Offering:** Indicate if the HMO plans to offer a NYSHIP Medicare Advantage Plan, in addition to the Commercial Plan.

3. **List of Counties:** Include a list of Counties and associated rating region configuration for the HMO's proposed 2016 NYSHIP Service Area. NOTE: Counties **must** be contiguous and listed for both Commercial Plan and Medicare Advantage Plan, if offered through NYSHIP. The Medicare Advantage Plan Service Area must be identical to the Commercial Plan and all counties must be CMS approved. **The Department, in consultation with the JLMC, considers Chemung and Schuyler counties in New York State to be underserved.**

4. **Schedule M:** Provide a copy of your organization's most recent annual filing of Schedule M (Complaints).

5. **NYSHIP Dependent Eligibility Rider**: Submit a copy of the *draft* NYSHIP Dependent Eligibility Rider your organization will file with the New York State Department of Financial Services (DFS). The HMO must agree to accept all determinations of eligibility made by the Department, and must provide a rider that includes all NYSHIP dependent eligibility provisions. A draft NYSHIP Eligibility Rider is included as Exhibit II.C "2016 NYSHIP Dependent Eligibility Rider" and provides the NYSHIP dependent eligibility requirements. The HMO must include this Rider, approved by the DFS, as part of its proposed benefit package.

6. Submit coverage and benefit documents. Note: All PDF documents are to be formatted to allow for document search functionality (e.g., search by word or phrase.)

   a. Certificate of Coverage (for Commercial Plan) and coverage riders. The proposed standard contract and riders should be available with prescription drug coverage and without prescription drug coverage. NOTE: As stated in Section IV.B.1.b. of the 2016 HMO Specifications, HMOs may meet the minimum benefit requirements through the use of a standard contract, or through a combination of a standard contract and riders.

   b. Evidence of Coverage (for Medicare Advantage Plans) and coverage riders, if offering a Medicare Advantage Plan. The proposed Medicare standard contract and riders should be available with prescription drug coverage and without prescription drug coverage.

   c. Completed Benefit Charts (Exhibits III.B.1 and III.B.2) for both Commercial and Medicare Advantage Plans, as applicable, **citing where each of the named benefits proposed for 2016 can be found in contract or rider language. All contracts and/or riders relating to your 2016 benefit offering must be listed. If there is no additional cost, indicate N/C in Projected Monthly Premium column. List the cost of the standard contract and riders for each rating region once, reference the citation in all other appropriate areas.**

   d. Choices Page, for both Commercial and Medicare Advantage Plans, as applicable. Additional information and instructions for accessing and completing the mandatory HMO e-page online will be sent under separate cover. NOTE: It is expected the HMO e-page will be available on or about May 27, 2015. HMOs will have one week to complete the HMO e-page.

   e. Schedule of Benefits – required for Commercial Plan and Medicare Advantage Plan enrollees, if applicable. NOTE: If this is part of your Certificate of Coverage and/or Evidence of Coverage, please indicate page numbers where this information can be found.

f. Side by Side Comparison of Benefit Changes 2015 to 2016 (document must be titled as such) identifying changes from 2015 (current year) to 2016 (upcoming year) –for Commercial Plan and Medicare Advantage Plan Enrollees, if applicable. In the event there are no changes in the benefits offered, the HMO is required to mail an affirmative statement to Enrollees confirming that there are no changes from the previous year; a copy of the statement of "no change" should be included in this submission, if applicable. This requirement is only for HMOs that participated in NYSHIP in 2015. (See Exhibit II.F for sample format.)

g. Listing of Certificate/Group Contract, Riders and/or Amendments (see Exhibit II.L for sample format). Note: Include both Commercial HMO and Medicare Advantage Plan documents.

h. Summary of Benefits and Coverage (SBC): Submit the Federally required SBC for the proposed benefit package offered through NYSHIP. If the final 2016 SBC is not available for inclusion with this submission, please submit a draft version and advise when it is expected to be finalized. A finalized SBC must be submitted as soon as it is available, but no later than October 1, 2015.

i. Additional Communication Materials to Enrollees for 2016 – Cover Letters, Optional Marketing Materials. Refer to Section IV.D of the 2016 Specifications for specific details. Please note: To ensure all Enrollees have plan information prior to the NYSHIP Option Transfer Period, HMOs must submit confirmation to the Department that all Required Communications Materials have been mailed to Enrollees by October 21, 2015.

Prescription Drug Benefit (Commercial Plan)

Provide responses to the following questions regarding your Commercial Plan prescription drug benefit:

1. Complete the following chart as applicable to the prescription drug program proposed for NYSHIP using the definitions below:

Formulary *(indicate using X in appropriate category)*				
Open or Incented[1]		Closed[2]		
Copayments for 30 day supply and 31-90 day supply				
If not available at specific pharmacy type put a "N/A" in appropriate box	Retail Acute	Retail Maintenance	Mail Order	Specialty Pharmacy
30 Day Supply				
Generic				
Preferred Brand				
Non-Preferred				
Specialty				
31-90 Day Supply				
Generic				
Preferred Brand				
Non-Preferred				
Specialty				

Cost Containment/Care Management Strategies *(indicate using X in appropriate category)*						
Mandatory Generic Requirement[1]	Prior Authorization[2]	Step Therapy[3]	Dose Optimization[4]	Half Tab Program[5]	OTC Program[6]	Generic Trial Program[7]

Definitions

Formulary:

(1) Open or Incented Formulary: The HMO provides coverage for all medications regardless of whether or not they are listed on the formulary. However, some drugs such as those for cosmetic use or over-the-counter drugs may be excluded from coverage. Members may incur additional out of pocket expenses for using non-formulary drugs.

(2) Closed Formulary: Non-formulary drugs are not reimbursed by the HMO. Administrative procedures are used to allow reimbursement for and access to non-formulary medications where medically appropriate.

Cost Containment Features:

(1) Mandatory Generic Requirement – When a generic drug is available, the HMO covers only the cost of the generic. If the member requests the brand name when a generic is available, an additional payment is required. This additional payment represents the cost difference between the generic and brand name.
(2) Prior Authorization – HMO requires members to receive authorization or approval before benefits will be provided for the prescribed drug.
(3) Step Therapy (and Fail First Requirements) – HMO requires members to try one or more "prerequisite therapy" drug(s) first before benefits will be provided for another drug.
(4) Dose Optimization – HMO requires members to switch to a higher once-daily dose of a drug when they are taking multiple daily doses of a lower strength.
(5) Half Tab Program – A voluntary half tablet/pill splitting program. By submitting a prescription for twice the dosage and half the quantity, with the physician's directions to take half a tablet at the regularly scheduled time, a member is eligible to receive the medication at half the cost of the regular copayment.
(6) OTC Program – Members allowed to choose specified over-the-counter drugs identical to the prescription version at no cost or at the lowest copay amount.
(7) Generic Trial Program – HMO covers the first 30-day fill of select generic drugs at no cost to the member.

2. How often are changes typically made to your prescription drug formulary? Describe how formulary changes are communicated to HMO providers and members.

3. Are members allowed to purchase a 90-day supply of maintenance medication at a participating retail pharmacy or only through mail order? If maintenance medications can be purchased at a retail pharmacy, state any supply limitations. In addition, describe the copayment structure applied to retail and/or mail order purchases for maintenance medications.

4. If HMO utilizes as a cost containment strategy, Mandatory Generic Requirement, describe the generic appeals procedure, if one is available, and how generic appeals information is communicated to members.

5. Does your prescription drug benefit have separate requirements or limitations for "specialty medications"? If so, please define "specialty medications" and describe the process members must use to obtain specialty medications, including whether specialty medications have to be purchased through a designated Specialty Pharmacy, supply limitations or other restrictions. If specialty medications are required to be purchased through a designated Specialty Pharmacy, have you implemented specialty prescription drug fulfillment hardship exception criteria?

Administrative Information

1. Complete the following chart listing any Key Subcontractors or Affiliates the HMO will employ to deliver a category of services to NYSHIP enrollees. A Key Subcontractor or Affiliate is a vendor with whom the HMO subcontracts to provide Program Services and incorporates as a part of the HMOs Program Team. If service is performed in-house by Contractor, indicate "self-administered" in appropriate column.

Key Subcontractors

Type of Service	Name of Organization	Contract Term and Renewal Dates	Description of Subcontracted Services
Mental Health and Substance Abuse Program Administration			
Prescription Drug Benefit Administration:			
Retail			
Mail Order			
Specialty Pharmacy			
Laboratory Services			
Utilization Review			
Medical Necessity Reviews			
Communication Materials			
Claims Processing			
Call Center			
Benefit Card			
Other (list each and describe)			

2. Describe any significant changes anticipated in your subcontracting relationships through the end of the contract term, 2016-2020.

3. Provide a listing of wellness programs/activities held or scheduled for 2015 and a summary of planned activities for 2016.

Wellness Programs/Activities

Description of Program/Activity	Planned Date

4. For your HMO business, complete the following chart listing your current ten largest employer groups in descending order by number of contracts:

Current Ten Largest Employer Groups

Employer Name	Number of Contracts

5. In accordance with Section IV.G.7 of these Specifications, please provide the following:
   - The URL address to the online prescription drug formulary you propose for the NYSHIP plan;
   - access information necessary for JLMC members to enter the HMO website to view applications available to members other than protected health information, such as provider search, wellness programs, etc.; and
   - For the Provider search, confirm the message that would be returned if a member entered a zip code outside of the HMOs approved NYSHIP service area. For example, if a member entered a Florida zip code, would the search results include providers in your Florida (non-NYSHIP) service are network instead of "NO Search Results Found"?

Provider Standards and Access Information

Amended May 21, 2015

1. Describe the method you use to determine that all members have reasonable access to Network Providers. For example, access to primary care physicians (PCP) should be within a 5-mile radius in an urban setting and 15 miles in a rural area. Provide the minimum standards you use to measure access. Submit a measurement of network access based on a "snapshot" of the network taken on March 31, 2015.

2. How do you monitor if Network Providers are accepting new patients into their practices? Do your proposed access standards take into account Provider availability; if yes, how?

3. Describe your approach for credentialing Network Providers; specify if you utilize an external credentialing verification organization. When was this process last completed? What is your process for confirming continuing compliance with credentialing standards? How often do you conduct a complete review? Include a description of how you monitor disciplinary actions by licensing agencies.

4. Explain your approach to Network Provider fee schedules, including a description of the type(s) of financial arrangements you have with each type of Provider (e.g., per diems, case rates, hourly rates, all inclusive per diems covering Facility and Practitioner fees, etc.).

5. Do you ever incorporate pay-for-performance, shared savings, risk pools, risk sharing, and/or withholds into the payment methodologies for Network Providers? If yes, describe. Describe any potential future plans to develop any of these care delivery models, including a timeline for implementation.

6. Provide an electronic copy of the most recent Health Plan Network (HPN) report submitted to the Department of Health indicating the HMOs provider network in place at the time of submission. This electronic report must be provided for both the Commercial Plan and Medicare Advantage Plan, if offered through NYSHIP.

7. Describe the utilization review procedures used when determining if care is medically necessary.

8. State if your plan requires referrals to network specialists. If referrals are required, describe the procedure enrollees must follow for referrals to network specialists. This information should be provided for both the Commercial Plan and Medicare Advantage Plan, if one is proposed to be offered through NYSHIP.

9. Describe the procedure Enrollees must follow for referrals to non-network providers. This information must be provided for both the Commercial Plan and Medicare Advantage Plan, if one is proposed to be offered through NYSHIP.

10. For HMOs proposing to offer both a Commercial Plan and a Medicare Advantage Plan (MAP) through NYSHIP, state if the provider networks for both plans are identical. If there are differences in the networks, describe any differences among the networks relative to provider type. For example, 95% of the primary care physicians in the Commercial Plan also participate in the Medicare Advantage Plan and 40% of the Specialty providers (HMO must define “Specialty providers”) in the Commercial Plan also participate in the Medicare Advantage Plan.

11. For HMOs proposing to offer a Medicare Advantage Plan through NYSHIP, provide the last three (3) years of CMS Star Ratings for the MA Plan that will be offered through NYSHIP. Has CMS frozen enrollment any time during the last three (3) years?

SECTION VI: DRAFT CONTRACT

AGREEMENT NO. C000XXX

THIS Agreement is entered into by and between the New York State Department of Civil Service ("Department" or DCS), having its principal office at the Empire State Plaza, Agency Building #1, Albany, New York 12239 and _____ ("Contractor"), a corporation authorized to do business in the State of New York with a principal place of business located at _____, and collectively referred to as the "Parties."

WITNESSETH

WHEREAS, Civil Service Law Article XI authorizes and directs the President of the State Civil Service Commission and New York State Department of Civil Service (President) to establish a health benefit plan for the benefit of State Employees, Retirees, and their Dependents, and for the benefit of Participating Employers, Retirees, and their Dependents; and

WHEREAS, Civil Service Law Article XI authorizes and directs the President to purchase a contract or contracts to provide the benefits under the plan of health benefit; and

WHEREAS, New York State, through the Department, oversees the New York State Health Insurance Program (NYSHIP) for New York State Employees and Retirees and their Dependents; and

WHEREAS, on April 23, 2015, the Department of Civil Service issued Specifications for Health Maintenance Organizations entitled "2016 HMO Specifications" to secure the services of qualified Health Maintenance Organizations for participation in the New York State Health Insurance Program (NYSHIP); and

WHEREAS, after thorough review by the State and the New York State Joint Labor Management Committees on Health Benefits of Proposals received in response to the Specifications, the Contractor represented its ability to deliver a Program Services for NYSHIP; and

WHEREAS, the Department, in reliance upon the expertise of the Contractor, desires to engage the Contractor to deliver a Program Services, pursuant to the terms and conditions set forth in this Agreement;

THEREFORE, the Parties agree as follows:

ARTICLE I: DEFINITION OF TERMS

1.1.0 **Affiliate** means a person or organization which, through stock ownership or any other affiliation, directly, indirectly, or constructively controls another person or organization, is controlled by another person or organization, or is, along with another person or organization, under the control of a common parent.

1.2.0 **Agreement** means the contract that results from these Specifications between the Department and the Contractor.

1.3.0 **Business Day(s)** means every Monday through Friday, except for days designated as Business Holidays.

1.4.0 **Business Holiday(s)** means legal holidays observed by the State. For Medicare Advantage Plan and Medicare Advantage Plans with Prescription Drug Plan, Business Holidays must additionally comply with Chapter 3, section 80.1 of the Medicare Managed Care Manual.

1.5.0 **Calendar Year/Annual** means a period of 12 months beginning with January 1 and ending with December 31.

1.6.0 **Centers for Medicare and Medicaid Services (CMS)** means the Federal Agency within the United States Department of Health and Human Services that is responsible for administration and oversight of various Medicare programs.

1.7.0 **Child(ren)** means children under 26 years of age, including natural children, legally adopted children, children in a waiting period prior to finalization of adoption, Enrollee stepchildren and children of the Enrollee's domestic partner. Other children who reside permanently with the Enrollee in the Enrollee's household and are chiefly dependent on the Enrollee are also eligible, subject to a statement of dependence and documentation.

1.8.0 **Clinical Manager –** means licensed PhD, clinical psychologist, licensed professional registered nurse, or licensed master's level certified social worker with a minimum of three to five years of previous position-related clinical experience.

1.9.0 **Commercial Plan** means the Plan submitted by the Contractor pursuant to this Agreement through which each Enrollee is entitled to receive comprehensive health benefits not obtained through a Medicare Advantage Plan.

1.10.0 **Coverage** means the health services and insurance benefits provided by the Contractor pursuant to this Agreement.

1.11.0 **Creditable Coverage** means prescription drug coverage that is deemed equivalent to Medicare Part D.

1.12.0 **Day(s)** means calendar day(s) unless otherwise noted in this Agreement.

1.13.0 **DCS or Department** means the New York State Department of Civil Service.

1.14.0 **Dependent** means the spouse, domestic partner, and children under twenty-six (26) years of age of an Enrollee. Young adult dependent children age twenty-six (26) or over are also eligible if they are incapable of supporting themselves due to mental or physical disability acquired before termination of their eligibility for coverage under the New York State Health Insurance Program.

1.15.0 **Dependent Survivor** means the unremarried spouse, dependent child, or domestic partner who has not acquired another domestic partner, of an Enrollee who died after having had at least ten (10) years of service, who was covered as a dependent of the deceased Enrollee at the time of the Enrollee's death and who elects to continue coverage under NYSHIP following the three (3) month extended benefits period.

1.16.0 **Disabled Lives Benefit** means the benefits provided to an Enrollee who is Totally Disabled on the date coverage ends. The benefits are provided on the same basis as if coverage had continued with no change until the day the Enrollee is no longer Totally Disabled or for ninety (90) days after the date the coverage ended, whichever is earlier.

1.17.0 **Employee** means any person defined as an Employee as defined in 4 NYCRR Part 73, as amended, or as modified by collective bargaining agreement.

1.18.0 **Employer** means Employer as defined in 4 NYCRR Part 73, as amended.

1.19.0 **Enrollee(s)** means those Employees and Retirees eligible for NYSHIP coverage as set forth in the regulations of the President of the Civil Service Commission at 4

NYCRR Part 73, and who have elected to receive HMO coverage under the terms and conditions of this Agreement.

1.20.0 **Enrollee Certificate of Insurance (Certificate)** means a comprehensive description of benefits provided through the HMO plan by the Contractor pursuant to this Agreement.

1.21.0 **ET** means prevailing Eastern Time.

1.22.0 **Health Maintenance Organization (HMO)** means any person, natural or corporate, or any groups of such persons who enter into an arrangement, agreement or plan, or any combination of arrangements or plans, which proposes to provide or offer, or which does provide or offer, a comprehensive health service plan for which the Contractor has current certification or licensure in accordance with the statutes and regulations of the State of New York and/or may operate outside the State of New York by federal qualification subject to appropriate jurisdiction for certification and oversight.

1.23.0 **HMO Member** means the Enrollee or any Dependent that is eligible, enrolled and covered by the HMO Plan.

1.24.0 **Joint Labor Management Committee (JLMC)** means a committee consisting of representatives of the State's collective bargaining units, the Department of Civil Service, and the Governor's Office of Employee Relations (GOER) which is charged with the responsibility to cooperatively develop and oversee administration of health care programs for State-represented Employees and to make mutually agreed upon changes to health insurance plan benefits.

1.25.0 **Key Subcontractor(s)** means those vendors with whom the Contractor subcontracts to provide Program Services and incorporated as a part of the Contractor's Program Team. Key Subcontractors include all vendors who will provide $100,000 or more in Program Services over the term of the Agreement that results from these Specifications, as well as any vendor who will provide Program Services in an amount lower than the $100,000 threshold and who is a part of the Contractor's Program Team.

1.26.0 **Medicare Advantage Plan (MAP)** means health benefits coverage offered under a policy or contract by an Medicare Advantage organization that includes a specific package of health benefits offered at a uniform premium and uniform level of cost-

sharing to all Medicare beneficiaries residing in the Service Area (or segment of the Service Area) of the MAP.

1.27.0 **Medicare Advantage with Prescription Drug (MAPD) Plan** means health benefits coverage offered under a policy or contract by a Medicare Advantage organization that includes a specific package of health benefits, as well as qualified prescription drug coverage, as defined at 42 CFR 423.100 and in section 20.1 of Chapter 5 of the Prescription Drug Benefit Manual, under Part D of the Social Security Act, as amended.

1.28.0 **MMCM** means the Centers for Medicare and Medicare Services Medicare Managed Care Manual.

1.29.0 **MAPD Evidence of Coverage (EOC)** means a comprehensive description of services and benefits provided to MAPD Members through the MAPD Plan. The EOC also defines the rights and responsibilities of the Member and the MA Organization under the MAPD Plan.

1.30.0 **MAPD Member(s)** means the MAPD Enrollee(s) or any Dependent that is eligible, enrolled and covered by the MAPD Plan.

1.31.0 **MAPD Enrollee(s)** means the eligible Employee or Retiree who is eligible to receive MAPD benefits under the rules, regulations and conditions of the NYSHIP and CMS, and is enrolled in the MAPD Plan.

1.32.0 **NYS** means New York State.

1.33.0 **NYSHIP** means the New York State Health Insurance Program.

1.34.0 **Offeror** means a person or entity that submits a Proposal in response to these Specifications.

1.35.0 **Option Transfer Period** means the period of time established by the Employer during which an Employee may transfer enrollment from one available health benefit plan (either an HMO or indemnity plan) to a different available plan.

1.36.0 **Participating Employer (PE)** means a public authority, public benefit corporation, or other public agency, subdivision, or quasi-public organization of the State which elects,

with the approval of the President of the Civil Service Commission, to participate in the New York State Health Insurance Program.

1.37.0 **Periodic Recruitment** means the State's reserved right to consider additional HMOs starting on the one year anniversary of the award start date or at any time deemed to be in the best interests of the State. Potential additional HMOs shall be required to submit an original bid document and, where applicable, bids shall be evaluated under the original "Specifications For Health Maintenance Organizations Participation in the New York State Health Insurance Program" requirements. An addendum containing additional applicable statutory requirements currently in effect at the time of the periodic recruitment may be added to the recruitment. The State is not required to award on offers under Periodic Recruitment.

1.38.0 **Plan** means the proposed health plan submitted by the Contractor for NYSHIP.

1.39.0 **Plan Year** means the period from January 1st to December 31st in each year covered by the Agreement, unless specified otherwise.

1.40.0 **President** means the President of the New York State Civil Service Commission and the Commissioner of the DCS.

1.41.0 **Program Services** means all of the services to be provided by the Contractor as set forth in these Specifications.

1.42.0 **Proposal or Submission** means the Contractor response to the 2016 HMO Specification including all responses to supplemental requests for clarification, information, or documentation submitted during the course of the Procurement.

1.43.0 **Regulations of the President of the Civil Service Commission** means those regulations promulgated by the DCS pursuant to Civil Service Law, Article XI, as amended, including but not limited to those rules and regulations found at 4 New York Code of Rules and Regulations (NYCRR) Part 73, as amended.

1.44.0 **Required Annual Submission** means the Contractor's response to program requirements in years 2 – 5 of the Agreement that results from these Specifications, including all responses to supplemental requests for clarification, information or documentation during the term of the Agreement.

1.45.0 **Retiree** means any person defined as a Retiree pursuant to the terms of 4 NYCRR Part 73, as amended.

1.46.0 **Service Area** means the approved counties in which an Contractor is authorized to offer services.

1.47.0 **Specifications** means the document entitled "2016 HMO Specifications for the New York Health Insurance Program (NYSHIP)" dated April 23, 2015.

1.48.0 **State** means New York State as a whole.

1.49.0 **Summary of Benefits and Coverage (SBC) :** means a federally mandated document that accurately describes the NYSHIP group benefits and coverage.

1.50.0 **SERFF** means the System for Electronic Rate and Form Filing system used by the DFS for rate filings.

1.51.0 **Total Disability and Totally Disabled** means that because of a medical or mental health/substance abuse condition, the Enrollee, cannot perform his/her job or the Dependent cannot perform the normal activities of a person that age.

1.52.0 **Vestee** means a former Employee who is entitled to continue benefits under NYSHIP because he/she has met all the requirements for NYSHIP coverage as a Retiree, except for age eligibility for pension, at the time employment terminates.

ARTICLE II AGREEMENT DURATION AND AMENDMENTS

2.1.0 This Agreement shall be subject to the approval of the New York State Attorney General's Office ("AG") and the NYS Office of the State Comptroller ("OSC"). The term of the Agreement is for the period starting January 1, 2016 through and including December 31, 2020, and subject to the termination provisions contained herein.

2.2.0 This Agreement is subject to amendment(s) only upon consent of the Parties, reduced to writing and approved by the AG and OSC.

2.3.0 The Contractor's continued participation in NYSHIP for each year subsequent to the initial year of the term is contingent upon the Department and the JLMC's review and approval of the following documents. The Contractor shall submit Required Annual Submission documents to the Department by the established deadline, including, but not limited to:

2.3.1 New York State (NYS) Department of Health Certification for HMOs to operate within an approved Service Area and the ability to provide comprehensive hospital, medical and prescription drug benefits for covered Enrollees;

2.3.2 Current HMO status based on the National Committee on Quality Assurance (NCQA);

2.3.3 Key Subcontractors listing;

2.3.4 Service Area expansion requests, if any;

2.3.5 Submission to offer or discontinue a Medicare Advantage Plan;

2.3.6 Most recent annual filing of Schedule M (Complaints); and

2.3.7 Coverage and benefit documents, including but not limited to:

2.3.7a Enrollee Certificate of Insurance

2.3.7b MAP and MAPD Evidence of Coverage

2.3.7c Choices - HMO e-page

2.3.7d Schedule of Benefits

2.3.7e Side by Side comparison of changes in benefits from current year to upcoming year

2.3.7f Coverage Riders and Addendums

2.3.7g Annual communication materials to Enrollees

2.3.7h Summary of Benefits and Coverage (SBC)

2.3.7i Other required submission material

2.4.0 The Required Annual Submission, listed in Section 2.30 of this Agreement shall be the basis of the Contractor's continuation in NYSHIP unless the Department chooses to amend any of the Required Annual Submission documents. Should the requirements be amended, the Department shall notify the Contractor in writing no later than thirty (30) days prior to the requested due date of the Required Annual Submission. Contractor's failure to submit the Required Annual Submission for the JLMC's review or failure to obtain the JLMC's approval by the Department's established deadlines may result in the Department's termination of the Agreement or placement of restrictions on the Contractor's participation in NYSHIP.

2.5.0 If the JLMC approves continuation, the Contractor shall be required to enter into such annual renewal at a premium rate to be specified in accordance with Article XIV, of this

Agreement entitled, "Determination of Rate Basis, Payment of Premiums and Grace Period."

2.6.0 During years 2 – 5 of the term of the Agreement, the JLMC, at its sole discretion, may determine that a geographic region is underserved by HMO coverage. In such circumstances, the Department will request current NYSHIP participating HMOs to submit expansion requests into the designated underserved area as part of the Required Annual Submission. All expansion requests into underserved areas must be contiguous to the HMO's approved NYSHIP Service Area.

2.7.0 This Agreement is subject to amendment(s) only upon the mutual consent of the Parties, reduced to writing and approved by the Office of the Attorney General and the Office of the State Comptroller of the State of New York.

Article III: INTEGRATION

3.1.0 This Agreement, including all Exhibits, copies of which are attached hereto and incorporated by reference, constitutes the entire Agreement between the Parties. All prior Agreements, representations, statements, negotiations, and undertakings are superseded hereby.

3.2.0 All statements made by the Department shall be deemed to be representations and not warranties.

ARTICLE IV: DOCUMENT INCORPORATION AND ORDER OF PRECEDENCE

4.1.0 The Agreement consists of:

4.1.1 The body of this Agreement (that portion preceding the signatures of the Parties in execution) and any amendments thereto;

4.1.2 Appendix A - Standard Clauses for all New York State Contracts;

4.1.3 Appendix B - Standard Clauses for All Department Contracts;

4.1.4 Appendix C - Third Party Connection and Data Sharing Agreement;

4.1.5 Appendix D - Participation by Minority Group Members and Women with Respect to State Contracts: Requirements and Procedures; Appendix D-1: Minority and Women-Owned Business Enterprises – Equal Employment Opportunity Policy Statement; and Appendix D-2: MWBE Utilization Reporting Responsibilities under Article 15-A; and

4.1.6 The following Exhibits attached and incorporated by reference to the body of the Agreement:

4.1.6a Exhibit A: The MacBride Act Statement and the Non-Collusive Bidding Certification;

4.1.6b Exhibit B: 2016 HMO Specifications dated April 23, 2015; and Exhibit B-1 – Official Department Response to Questions Raised Concerning the 2016 HMO Specifications, dated (*insert Date*); and

4.1.6c Exhibit C: Contractor's Proposal dated *(insert Date)*; Exhibit C-1: Written responses to clarifying questions regarding Contractor's Proposal.

4.1.7 In the event of any inconsistency in or conflict among the document elements of the Agreement identified above, such inconsistency or conflict shall be resolved by giving precedence to the document elements in the following order:

4.1.7a First, Appendix A - Standard Clauses for All New York State Contracts;

4.1.7b Second, Appendix B - Standard Clauses for All Department Contracts;

4.1.7c Third, Appendix C - Third Party Connection and Data Sharing Agreement;

4.1.7d Fourth, Appendix D - Participation by Minority Group Members and Women with Respect to State Contracts: Requirements and Procedures; Appendix D-1: Minority and Women-Owned Business Enterprises – Equal Employment Opportunity Policy Statement; and Appendix D-2: MWBE Utilization Reporting Responsibilities under Article 15-A;

4.1.7e Fifth, any Amendments to the body of this Agreement;

4.1.7f Sixth, the body of this Agreement;

4.1.7g Seventh, Exhibit A the MacBride Act Statement and the Non-Collusive Bidding Certification;

4.1.7h Eighth, Exhibit B – the 2016 HMO Specifications dated April 23, 2015; and Exhibit B-1 – the official Department response to questions raised concerning the 2016 HMO Specifications, dated (*insert Date*); and

4.1.7i Ninth, Exhibit C – the Contractor's Proposal; and, Exhibit C-1 – Written responses to clarifying questions regarding Contractor's Proposal.

4.2.0 The terms, provisions, representations and warranties contained in the Agreement shall survive performance hereunder.

ARTICLE V: LEGAL AUTHORITY TO PERFORM

5.1.0 The Contractor shall maintain appropriate corporate and/or legal authority, which shall include but is not limited to the maintenance of an administrative organization capable of delivering the Program Services in accordance with the Agreement and the authority to do business in the State of New York or any other governmental jurisdiction in which the Program Services are to be delivered.

5.2.0 Contractor agrees that it shall perform its obligations under this Agreement in accordance with all applicable federal and NYS laws, rules and regulations, policies and/or guidelines now or hereafter in effect.

5.3.0 The Contractor shall provide the Department with immediate notice in writing of the initiation of any legal action or suit which relates in any way to the Agreement, or which may affect the performance of Contractor's duties under the Agreement.

ARTICLE VI: PROGRAM SERVICES

6.1.0 The Contractor shall submit for the JLMC's review and approval a Plan in accordance with the Specifications (Exhibit B) and the Contractor's Proposal (Exhibit C). No aspect of Contractor's performance of Program Services under the Plan in accordance with the terms and conditions of the Agreement and the Specifications, shall be contingent upon State personnel or the availability of State resources with the exception of all proposed actions of the Contractor specifically identified in the Agreement as requiring Department approval. The Department shall act promptly and in good faith with respect to its approval or disapproval of the Plan.

6.2.0 **Commercial Plan Benefits***:* Any changes in benefits and/or Coverage in years subsequent to the first year of the Agreement shall be presented to the Department and JLMC in response to the Required Annual Submission. The Commercial Plan Benefits must:

6.2.1 Be fully ACA compliant;

6.2.2 Specify copayments or coinsurance, as part of the benefit package; however, copayments or coinsurance for inpatient hospital care and annual deductibles are not permitted;

6.2.3 Comply with all services required by Federal and NYS laws and/or regulations in addition to the following enhanced coverage:

6.2.3a ***Prosthetic Devices****:* Medically necessary prosthetic devices that aid body functioning or replace a limb or body part in order to correct a defect of body form or function must be covered. Examples of prosthetic devices include but are not limited to: artificial limbs, pacemakers, heart valve replacements, artificial joints, external breast prostheses and ostomy supplies. Replacements, repairs and maintenance not provided for under a manufacturer's warranty or purchase agreement must be covered when functionally necessary;

6.2.3b ***Durable Medical Equipment****:* Medically necessary Durable Medical Equipment (DME) that can withstand repeated use and is primarily used to serve a medical purpose must be covered. Examples of DME include but are not limited to: wheelchairs, walkers, respiratory equipment, and oxygen supplies. Replacements, repairs and maintenance, not provided for under a manufacturer's warranty or purchase agreement must be covered when functionally necessary;

6.2.3c ***Orthotic Devices****:* Medically Necessary custom-made orthotic devices used to support, align, prevent or correct deformities or to improve the function of the foot must be covered. Orthopedic shoes and other supportive devices for treatment of weak, strained, flat, unstable or unbalanced feet should not be included for coverage. Replacements, repairs and maintenance not provided for under a manufacturer's warranty or purchase agreement must be covered when functionally necessary;

6.2.3d ***Prescription Drugs****:* Medically necessary federal legend and state restricted drugs, compounded medications and injectable and self-injectable medications, contraceptive drugs and devices, fertility drugs and enteral formulas must be covered. (The copayment for self-

injectable drugs, including fertility drugs, must be the same as the copayment for other covered drugs, except drugs limited to 30-day supply at dispensing.) No annual or lifetime maximum permitted; and

6.2.3e ***Gender Identity Disorder Services****:* Diagnosis and treatment of Gender Dysphoria must be covered.

6.2.4 Benefits for services not listed as minimum benefit requirements pursuant to this Section 6.2.0, such as routine/preventive dental services and/or the provision of eyeglasses for routine vision correction may be included in the Contractor's standard package. However, riders that include an additional charge for such benefits will not be accepted. Exclusions and other limiting language are subject to modification by the Department in consultation with the JLMC.

6.3.0 Use of Standard Contracts and Riders*:* Contractors may propose to meet the minimum benefit requirements set forth in these Specifications through the use of a standard contract, or through a combination of a standard contract and riders.

6.3.1 A rider shall be accepted by the Department in consultation with the JLMC only if such rider is necessary to bring the standard Plan proposed by the Contractor into conformity with the minimum benefit requirements. It is <u>not</u> the intent of the Department to purchase from Contractors riders that increase the Plan benefit package to a level above the minimum requirements set forth in the Specifications. Riders that provide benefits not required by the minimum benefit requirements, or that provide benefits in excess of the minimum benefit requirements, may be rejected by the Department in consultation with the JLMC.

6.4.0 Medicare Advantage Plan Benefit Requirements (If Offered): Contractor must comply with CMS guidelines and, in addition, the benefit levels provided, must meet or exceed the minimum benefits as set forth in Section 6.2.0 above. Other benefits above the minimum benefits must be comparable to those provided to non-Medicare primary Enrollees. Instances where Federal Law and/or regulation preclude a Contractor from complying with this requirement must be clearly identified in the Contractor's Proposal.

6.4.1 Contractor's MA Plan must be CMS approved for all counties in the proposed Service Area.

6.4.2 The Contractor may submit only one Plan for Medicare primary Enrollees, either the Commercial Plan which coordinates with Medicare and includes prescription drug coverage equal to, or better than, Medicare Part D or a Medicare Advantage with Prescription Drug Plan.

6.4.3 The Contractor must provide Medicare Part D coverage in the coverage gap at a level equal to the Commercial Plan.

6.4.4 If the Contractor's Medicare ranking falls below 3 stars and has its enrollment frozen by CMS the Contractor must keep an Enrollee that otherwise would have aged-into the Medicare Advantage Plan in the Commercial Plan until CMS lifts the enrollment freeze.

6.5.0 Service Accessibility:

6.5.1 The Contractor is required to include in its network various State-run facilities located throughout New York State, (e.g., Roswell Park Cancer Institute, and Helen Hayes Hospital) if such hospitals are within the Contractor's proposed Service Area.

6.5.2 Twenty-four (24) Hour Coverage: Consistent with New York State laws and/or regulations, the Contractor must provide coverage to members, either directly or through their Primary Care Physician (PCP), twenty-four (24) hours a day, seven days a week. Contractors also must instruct their members on what to do to obtain services after regular business hours.

6.5.3 Days to Appointment: Contractor must contract with providers who agree to abide with the following appointment standards:

6.5.3a Emergency medical or mental health and substance abuse problems, immediately;

6.5.3b Urgent medical or mental health and substance abuse problems, within 24 hours of request;

6.5.3c Non-urgent "sick visits," within 48 to 72 hours, as clinically indicated;

6.5.3d In-Plan, non-urgent mental health and substance abuse visits, within two (2) weeks;

6.5.3e Adult baseline and routine physicals and non-urgent or preventive care visits, within twelve (12) weeks;

6.5.3f Initial prenatal visits, within three (3) weeks during the first trimester and two (2) weeks thereafter; and

6.5.3g Initial visit for newborns to their PCP, within two (2) weeks of hospital discharge.

6.6.0 Communication Material Requirements:

6.6.1 All Enrollee material as well as all communications material must be sent to all members of the JLMC and approved by the Department prior to distribution to State Enrollees. This includes both annual benefit plan communications and updated communications distributed by the Contractor throughout the year.

6.6.1a All communication material must present a clear, factually correct, complete and easily understood description of the benefits available through the Contractor. Any incorrect or incomplete communications sent by the Contractor to NYSHIP Enrollees related to required communication materials as set forth in Article XV of the Agreement must be corrected and re-sent at the Contractor's expense. Benefits offered and/or received prior to this correction must be covered until Enrollees receive the correction notification or, at the discretion of the Department in consultation with the JLMC, for the balance of the Plan Year.

6.6.1b Communication materials may promote the Contractor but must not make general or specific comparisons to any other NYSHIP option. The Contractor will not be permitted to make reference to the Empire Plan or Plan specific comparisons to other NYSHIP HMOs. For example, a Contractor may not state that they "serve more NYSHIP members than any other HMO that participates in NYSHIP."

6.6.1c Communication activities may not discriminate on the basis of a potential member's health status, prior use of health service, or need for future health services.

6.6.1d The Contractor may not engage in communication practices or distribute communication materials that mislead or confuse NYSHIP enrollees by promoting benefits for which the NYSHIP Enrollee is not covered.

6.6.1e The premium cost of all NYSHIP health plan options will be communicated to Enrollees by the Employee Benefits Division, Department of Civil Service, and shall not be included in any communication materials distributed by any Contractor, with the exception of rate filing notifications required by the NYS Department of Financial Services.

6.6.1f Visual presentations of Enrollees in the Contractor communication material must be representative of the diversity within the New York State enrollment.

6.6.2 The Contractor is required to timely submit drafts of the Cover Letter, federally mandated Summary of Benefits and Coverage (SBC), Schedule of Benefits, and Side-by-Side Comparison of Benefit Changes in both hard copies and PDF with their Required Annual Submission. The Department may amend the mailing date(s) of communication materials for Retiree groups should it be necessary to coordinate these mailing(s) with Department communications.

6.6.2a The required communication material, after approval by the Department and JLMC, will require that the Cover Letter, Schedule of Benefits, and the applicable Side-by-Side Comparison of Benefit Changes be transmitted to Enrollees in one mailing. Final versions of these mailings must be sent to all JLMC Contact Members one (1) week prior to distribution to Enrollees.

6.6.2b The Contractor may, however, direct NYSHIP Enrollees to rate information provided by the Department. Rate information is provided on the Department's web site at www.cs.ny.gov.

6.6.2c ***Cover letters:*** The Communications Materials mailing to Contractor members must be submitted as part of the Contractor's Required Annual Submission. The Contractor must include the following statement in the Cover Letter, "Your Eligibility Guidelines may be

different from those guidelines listed in the contract. Please refer to your NYSHIP General Information Book for these guidelines or visit the New York State Department of Civil Service's web site at www.cs.ny.gov."

6.6.2d ***Summary of Benefits and Coverage (SBC) :*** The Contractor must comply with ACA to produce, revise, distribute and translate, upon request, an SBC that accurately describes the NYSHIP group benefits and coverage. The SBC must be provided to the Department in an electronic format as a PDF document no later than 30 days before the beginning of each Plan Year for posting to the Department's website. The Contractor must distribute a SBC to any eligible Employee or Retiree contacting the Contractor or the Department to request a copy in accordance with ACA requirements for timely distribution. Annually, at Plan renewal or upon material modification of the SBC, the Contractor must provide notice to all current Enrollees via a postcard, plan materials, or other Federally-compliant means of notification of how to view or obtain a copy of the SBC from the Contractor.

6.6.2e ***Schedule of Benefits:*** The Contractor's Schedule of Benefits must include, but not be limited to, applicable copayments and/or coinsurance levels. The Schedule of Benefits must also include a comprehensive description of limitations and exclusions. A separate Schedule of Benefits is required for the Commercial HMO Plan and the Medicare Advantage Plan, if offered by the Contractor.

6.6.2f ***Side by Side Comparison on Benefits:*** The Contractors is required to submit a Side by Side Comparison of Benefits that lists changes in the benefits offered to Enrollees from the previous year to the current year, if it participated in NYSHIP in the previous year. Such changes include, but are not limited to: copayments; new benefits; number of days of a prescription drug supply; delivery of services; and provider networks. In the event there are no changes in the benefits offered, the Contractor will be required to mail to members an affirmative statement that states that there are no changes in either the benefits offered or delivery of services from the previous year. The Side by Side Comparison of Benefits must

be provided to the Department in an electronic format as a PDF document no later than 30 days before the beginning of each Plan Year for posting to the Department's website.

6.6.3 ***Choices Guide*:** To assist NYSHIP Enrollees in choosing a health insurance plan during the annual Option Transfer Period, the Department will develop the Choices Guide. This Guide contains uniformly formatted pages for each Plan offering (Commercial and Medicare Advantage, if offered) so that Enrollees may easily compare the benefits offered.

6.6.4 ***Optional Marketing Materials and Activities:*** If the Contractor chooses to distribute optional marketing materials and/or participate in optional activities, it must:

6.6.4a Develop and distribute generic marketing materials to NYSHIP Enrollees who live or work in the Contractor's approved NYSHIP Service Area, that are consistent with NYSHIP benefits. The Department will not provide any information to the Contractor regarding the identification of eligible NYSHIP Enrollees or their mailing addresses. Any optional marketing materials mailed by the Contractor, including provider directories and newsletters, must be submitted in advance to all JLMC Contact Members;

6.6.4b Not provide potential NYSHIP members with giveaways as an inducement to enroll in the HMO;

6.6.4c Not permitted to conduct marketing activities at State work sites without prior approval of the Department. Requests for such activities must be submitted to the Department, Attention: Employee Benefits Division, Communications Unit, in writing with a copy to the Governor's Office of Employee Relations, Attention: Employee Benefits Management Unit. Marketing activities include, but are not limited to, participation in health fairs and information booths. The Contractor may only distribute materials that provide specific information regarding the HMO or relate to general health care issues at such approved work site presentations. Items that do not meet these criteria and have no more than a nominal

value may be distributed to NYSHIP Enrollees attending conferences and/or meetings that are not held at the work site; and

6.6.4d Not state how much premiums will decrease or how much savings may be realized, as a result of the Contractor's benefit changes that are expected to reduce premium costs. A notation may be included in the Contractor's Optional Marketing Materials that certain benefit changes are expected to result in decreased premiums or to help limit premium increases.

6.7.0 Reporting

6.7.1 *Complaint/Grievance/External Appeals*

6.7.1a ***Complaints:*** The Contractor must maintain records of all complaints that have been unresolved for more than forty-five days (45) days. Such records shall include the actual complaint, all correspondence related to the complaint, and an explanation of the disposition of the complaint. The Contractor must make these records available to the JLMC Contact Members upon request. All Enrollee identifying information must be redacted.

6.7.1b ***Grievances:*** The Contractor must maintain a report summarizing the number of grievances filed for the most recent Plan Year, sorted by procedure type. The report must include the total number of grievances, the number of grievances upheld, overturned, modified or withdrawn. The Contractor must make these records available to the JLMC Contract Members upon request.

6.7.1c ***External Appeals:*** The Contractor must maintain a report summarizing the number of external appeals filed for the most recent Plan Year, sorted by procedure type. The report must include the total number of external appeals, the number of appeals upheld, overturned, modified or withdrawn. The Contractor must make these records available to the JLMC Contract Members upon request.

6.7.1d The Department reserves the right to seek information immediately from the Contractor pursuant to investigation of a particular member or provider complaint.

6.7.2. ***Member Satisfaction Surveys:*** The Contractor must provide a copy of any member satisfaction survey that includes NYSHIP Enrollees and survey results electronically in searchable format within 30 days upon request from any JLMC Contact Member.

6.7.3. ***Medicare Advantage Plan Enrollments/Disenrollments:*** The Contractor must notify the Department on a monthly basis of any members who are no longer eligible to be enrolled in the Medicare Advantage Plan for reasons identified by the Contractor or CMS, including but not limited to: missing HICN; and no Medicare Parts A and/or B. The Department must also be notified if an Enrollee moved out of the Contractor's Service Area or is deceased.

6.7.4. ***Federal Medical Loss Ratio (MLR):*** The Contractor must file its Medical Loss Ratio (MLR) with the federal government by June 1 each year for the prior Calendar Year. In those instances where the Contractor fails to meet the required MLR threshold for community rated large group contracts during the preceding Calendar Year, rebates must be paid to NYSHIP by August 1 of the current calendar year. In addition, notification must be provided to both Enrollees and the employer group in instances where the MLR threshold has not been met, in accordance with ACA regulations.

6.7.5. ***Low Income Subsidy (LIS):*** The Contactor must submit an LIS report to the Department no later than fifteen (15) Business Days from the date the Contractor receives the subsidy payment from CMS. The report must include the following information regarding payments made by the Contractor to LIS Enrollees: 1) Payment Date; 2) Carrier ID; 3) Benefit Plan; 4) Benefit Program; 5) Last Name; 6) First Name; 7) DOB; 8) HICN; 9) Member ID; 10) SSN; 11) # of Payments; 12) Payment Start Date; 13) Payment End Date; 14) ADJ Reason Code; 15) ADJ Reason Code Description; and 16) LIS Premium Subsidy Amount.

6.7.6. ***Healthcare Effectiveness Data and Information Set (HEDIS) Reports:*** Consistent with State and Federal regulations, The Contractor must complete HEDIS reports on a timely basis.

6.8.0 Submission of Premium Rates: In order to prepare for the annual health insurance Option Transfer Period, NYSHIP premium rate submissions are due to the Department by September 1 of each Calendar Year. The premium rates shall be accompanied by the

Contractor's most recent available year-to-date loss ratio for the community pool in which NYSHIP Enrollees are included. The premiums submitted to the Department shall be guaranteed rates under the NYS Department of Financial Services (DFS) regulation 11 NYCRR 52.42(b). The premium rates guaranteed shall be the presently prevailing approved or filed premiums or the Contractor's best estimate of the expected average filed or approved premium rates for the following year adjusted by any prospective or retrospective adjustments required for guaranteed premium rates under 11 NYCRR 52.42(b). The premium rates for those Enrollees who reside out of state must be the same as NYS premium rates filed with the NYS DFS. Upon request, the Contractor shall provide detailed information to support the quoted premium rates:

6.8.1 ***NYS DFS Rates Filed and Approved:*** The Contractor must provide a complete copy of the NYS DFS's "Prior Approval Rate Change" application along with the printout of the SERFF disposition notice indicating NYSDFS approval of the rates submitted must be submitted to the Department by September 1 of each Calendar Year.

6.8.2. ***Rates Filed and Pending NYS DFS Acknowledgment:*** If the Contractor has a with rate request pending NYS DFS's approval with an effective date no later than January 1, the Contractor must submit a complete copy of the NYS DFS "Prior Approval Rate Change" application and the SERFF application notice indicating submission of the application by September 1 of each Calendar Year. The receipt confirmation from the NYS DFS must be sent to the Department by February 1 of each year.

6.8.3. ***Rates Not Yet Submitted for NYS DFS Approval****:* If the Contractor intends to submit a rate increase or decrease to the NYS DFS but has not made the submission by the Rate Submission Deadline, the Contractor must provide a letter from the Contractor's Chief Executive Officer, by September 1 of each Calendar Year, which states that the Contractor has not yet submitted a request for a rate increase/decrease to the NYS DFS but intends to file a "Prior Approval Rate Change" application for a rate increase/decrease to be effective on or before January 1 and that the rates submitted to NYSHIP are the best estimate of the rates which will be submitted to the NYS DFS. A complete copy of the SERFF application notice indicating submission of the "Prior Approval Rate Change" application and the receipt confirmation from the NYS DFS must be submitted to the Department by February 1 of each Calendar Year. If the

Contractor has not provided rates by September 1 of each Calendar Year it may be excluded by the Department in consultation with the JLMC as a NYSHIP health plan option for the period covered by these Specifications.

6.8.4 ***Premium Rate Billing:*** NYSHIP rates are comprised of (1) the Contractor's Community Rates associated with the JLMC approved benefits for the following Plan Year, as submitted to and approved by the NYS Department of Financial Services (DFS), (2) Medicare Rate Adjustments (if applicable); and (3) Prior Period Adjustments:

6.8.4a ***Community Rates***: The basis for NYSHIP rates are the Contractor's Community Rates (basic contract rates and required benefit rider rates) for Plan Year for the specific Commercial Plan approved by the Department in consultation with the JLMC which have either been approved or are pending approval by DFS.

6.8.4b ***Medicare Rate Adjustments:*** NYSHIP's rate structure and billing system do not differentiate between Medicare and non-Medicare contracts. Regardless of Medicare status, Enrollees/Employers are billed and the Contractor will be paid the same rates. In accordance with CMS guidelines, the Contractor is required to submit Medicare Rates to CMS for each Medicare Plan. The premium rates for the Medicare Plan approved by the JLMC will vary from the Commercial Plan rates; they are typically less than those for the Commercial Plan. The variances between the Commercial Plan rates and the Medicare Rates are recognized in the NYSHIP rate development calculation by means of adjustments to the Community Rates.

6.8.4c ***Prior Period Adjustments:*** The Contractor's NYSHIP premium rate submission will include Community Rates that are pending approval by DFS. The rates eventually approved by DFS may be greater than or less than the Community Rates submitted to the Department and implemented for the Plan Year, resulting in insufficient or excess premiums paid to the Contractor, respectively. As such, the NYSHIP premium rate calculations incorporate prior period adjustment calculations to recognize those differences between the submitted rates and the final approved DFS rates. The prior period adjustment

calculations represent the differences in the initial and final rates multiplied by actual current year enrollment (as provided by the Department, taken from NYBEAS) and are applied as adjustment to the Community Rates.

6.8.4d The Contractor may submit for a rate adjustment to DFS with an effective date of January 1. Such rate adjustment is only applicable until another rate request is made and approved by DFS. For administrative purposes, the Contractor may guarantee the payment of the implemented rate for one year and incorporate any approved mid-year rate changes into the prior period adjustment of the following year's guaranteed rate.

6.8.4e For a Contractor that has withdrawn from NYSHIP, within the first six months following its withdrawal, a prior period calculation will be required for each of administered NYSHIP options. Unlike the active HMO options in which prior period adjustments are applied to a future rate period, an aggregate overpayment/underpayment is calculated for the withdrawn Contractor. An aggregate credit, or negative, dollar amount would represent an overpayment of prior year premium by DCS to the Contractor. An aggregate debit, or positive, dollar amount would represent an underpayment or prior year premium by the Department to the Contractor. The period adjustment calculation is subject to review and approval by the Department. Upon written approval of the prior period adjustment calculation by the Department, any amount due, whether to the Department or the Contractor, shall be paid within thirty days of written approval.

6.9.0 Administrative Requirements

6.9.1 ***Account Management Team:*** The Contractor must have an Account Management Team with a proactive, experienced account leader and team in place who have the authority and expertise to coordinate the appropriate resources to:

6.9.1a Ensure that there is a process in place to gain immediate access to appropriate corporate resources and senior management necessary to

meet all Contractor Program requirements and to address any issues that may arise during the performance of the Agreement;

6.9.1b Ensure the Account Management Team is accessible and sufficiently staffed to provide timely responses (within 1 to 2 Business Days) to concerns and inquiries posed by the Department, or other staff on behalf of the JLMC regarding member-specific claims issues for the duration of the Agreement to the satisfaction of the Department; and

6.9.1c Immediately notify the Department, in writing, of actual or anticipated events impacting the Program requirements and/or delivery of services to Enrollees such as but not limited to: change from not-for-profit status to for-profit status;, applications by another party to acquire control of the Contractor; legislation; class action settlements; and operational issues.

6.9.2 ***Alternate Identification Number:*** The Contractor must use an identification number other than Social Security Number on identification cards and other documents, forms or correspondence provided to users external to the Contractor for its members enrolled through NYSHIP.

6.9.3 ***Hospital and Provider Group Changes:*** The Contractor must advise all JLMC Contact Members of the potential withdrawal of any hospital or hospital group and of any significant provider group from the Contractor's provider network as soon as the potential withdrawal is identified, but no later than thirty (30) days prior to the group's potential withdrawal date.

6.9.4 ***NYSHIP Standing within HMO Customer Base:*** For the initial year of this contract term, the Contractor is required to list its current ten largest employer groups, in descending order, by number of contracts for the organization's HMO business (i.e., large group HMO product) in which NYSHIP is included and indicate where NYSHIP enrollment would rank in the standings. Thereafter, the Contractor must advise the Department and JLMC Contact Members of any change to NYSHIP's position in the standings as part of the Annual Required Submission.

6.9.5 ***Key Subcontractor Changes:*** The Contractor must provide all JLMC Contact Members with notification of changes in Key Subcontractors within thirty (30) days of such changes becoming final.

6.9.6 ***Region Configuration Changes:*** The Contractor must notify the Department, in writing, in advance of all proposed changes in the configuration of Service Area counties, including a shift in counties within rating regions or the establishment of a new rating region(s). This notification must be made to the Department at the time the request is submitted to the regulatory agency and noted as pending. The Contractor must notify the Department of the determination by the regulatory agency, and upon approval, be provided all pertinent information including, but not limited to the effective date of the change. The Contractor must also provide the Department and all JLMC Contact Members with copies of all notification materials for members impacted by the reconfiguration of Service Area prior to distribution to the members.

6.9.7 ***Website Access:*** The Contractor must provide the Department and JLMC Contact Members responsible for administrative oversight of NYSHIP HMOs with access to website applications that are available only to members. The Contractor must also provide the URL of the main website and provide a dummy ID and password so that the Department may view the capabilities and user friendliness of the Contractor's website.

6.9.8 ***Enrollment Data Transmission Requirement:*** The Contractor must use the enrollment data transmission protocol and encryption method stipulated by the Department. The current data transmission protocol must be Secure FTP, and the current encryption methodology must be PGP, or as otherwise specified by the Department. Secure FTP must be compatible with the OpenSSH implementation of Secure FTP. Further, the Contractor must agree to execute the Department's Third Party Connection Agreement and Third Party User Agreement and any amendments, as required as well as any other agreement or protocol required by the Department to ensure the security of its data transmissions.

6.9.9 ***Release of Protected Health Information Requirement:*** The Contractor must accept a signed and valid NYSHIP Authorization for Release of Protected Health Information form, or any alternative form developed during the term of the

Agreement, for the purpose of the release of protected health information to NYSHIP representatives.

6.9.10 ***Medicare Secondary Payer Claim Administration (Applies only to Commercial Plan):*** The Contractor must agree to follow the procedures set forth below in handling Medicare Secondary Payer (MSP) claims for any NYSHIP Enrollees and Dependents:

6.9.10a Upon receipt of a demand letter directly from the Centers of Medicaid and Medicare Services (CMS) or indirectly from the Department for the payment of a claim that was paid primary by Medicare and for which CMS asserts NYSHIP coverage should have been primary, the Contractor shall make its best effort to resolve the claim within the timeframe specified by CMS. This shall include working with the Department to determine the claimant's employment status at the time the claim was incurred, the amount of liability for such claim on the part of the Contractor and the payment of any liability owed by the Contractor to CMS;

6.9.10b In the event an MSP claim is not settled with CMS within the timeframe specified in the demand letter, the Department reserves the right to have CMS reimbursed the full amount of the claim by another NYSHIP plan administrator for the purpose of avoiding any interest charges and/or the offset of other Federal funds payable to the State. The Contractor agrees that if it is determined that there was liability for payment of all or part of such claim including accrued interest, the Contractor shall, upon the direction of the Department, repay to the NYSHIP Plan administrator amounts paid on behalf of the Contractor for MSP claims by the NYSHIP Plan administrator;

6.9.10c The Contractor agrees to periodically report to the Department the status of any unresolved MSP claims, including both claims received directly from CMS or indirectly received from the Department. The timing and information to be included in such reports shall be specified by the Department. In addition, the Contractor shall provide to the Department copies of any correspondence it sends to CMS regarding NYSHIP MSP claims; and

6.9.10d In the event there is an offset of Federal funds payable to a New York State agency by the U.S. Treasury because of an unresolved MSP claim attributable to the Contractor, the Department shall reimburse such agency for the offset using monies from the Health Insurance Fund and shall reduce the next premium payment to the Contractor by the amount of such offset.

6.10.0 Coordination with Medicare: The Contractor must comply with any and all requests from the Department for assistance and such other support as the Department may require to ensure a correct and adequate interface between NYSHIP and the Centers for Medicare and Medicaid Services (CMS). Such services shall include at least the following tasks and such other tasks as may be added in guidance and further regulation by CMS:

6.10.1 ***Retiree Drug Subsidy*:** If the Contractor does not administer an approved Medicare Advantage Plan for NYSHIP, the Contractor shall disclose to CMS, on behalf of the Department, any information received from the Department or within the Contractor's control, necessary for the Department to comply with requirements of the Retiree Drug Subsidy (RDS). This includes providing and maintaining the accounting and enrollment records, as well as reporting documentation in the format and layout required by the Department, necessary to enable the Department to collect and verify the Retiree Drug Subsidy from CMS. The format and layout will be provided to the Contractor and may be revised at the discretion of the Department. If revised, the Department shall provide revised layout documentation to the Contractor. Required RDS tasks shall include, but not be limited to:

6.10.1a Timely submission by the Contractor to the Department all records and reports in a manner, form, and timeliness acceptable to the Department as required support of the Contractor's semi-annually submission of data to CMS in order to permit the Department's receipt of Retiree Drug Subsidy payments on a semi-annually basis. Semi-annually data submission must be received by the Department no later than 45 days following the end of each semi-annual period;

6.10.1b Timely submission by the Contractor to the Department of all records and reports in a manner and form acceptable to the Department as

required support to complete the annual reconciliation process. Such records must be in compliance with CMS and Department requirements, including but are not limited to:

6.10.1b(1) Tracking of final paid claims;

6.10.1b(2) Submitted to the Department all components of the annual RDS Reconciliation Reporting (Detail and Summary Payment files, Detail and Summary Payment file, Record Counts and Cost Report), meeting the Departments' specifications for completeness and accuracy, no later than February 1 of the calendar year in which the Reconciliation is required to be filed with CMS; and;

6.10.1b(3) Agreeing to performance standards for RDS except for those occurrences where a delay is due to a CMS regulation or requirement change impacting file production, as follows: required Reconciliation reporting by the specified due date,

6.10.1b(3)i The Contractor shall remit to the Department $1,000 for each day beyond the due date that the required complete and accurate RDS files are not provided to the Department; and

6.10.1b(3)ii The Contractor shall indemnify the Department, in total, for any and all losses incurred, should the Contractor's failure to provide acceptable files and timely cost reporting to CMS result in any loss of Retiree Drug Subsidy reimbursement to the Department.

6.10.1c Reporting the annual RDS Reconciliation to the CMS/Retiree Drug Subsidy website, once approved, in writing, by the Department;

6.10.1d Assisting the Department to complete the annual attestation of actuarial equivalence for the 2016 Plan Year and subsequent Plan Years. If applicable, the Contractor must also cooperate with the Department to

disclose to CMS and to NYSHIP's Part D-eligible Enrollees if the Department is unable to attest to the requisite actuarial equivalence;

6.10.1e Establishing and implementing proper safeguards against the unauthorized use and disclosure of the data exchanged pursuant to the administration of the NYSHIP Retiree Drug Subsidy as well as other aspects of the interface between NYSHIP and CMS. Such safeguards shall include the adoption of policies and procedures to ensure that the data obtained as a consequence of the NYSHIP Retiree Drug Subsidy application shall be used solely in accordance with applicable federal and State law. The Contractor shall establish appropriate administrative, technical, procedural, and physical safeguards to protect the confidentiality of the data and to prevent unauthorized access to the data. The safeguards shall provide a level of security at least comparable to the level of security required of the Department by CMS, as specified by CMS. Any and all Contractor\Personnel interacting with this data must be advised by the Contractor of the confidential nature of the information, the safeguards required to protect the information, and the administrative, civil and criminal penalties for noncompliance contained in applicable federal and State law;

6.10.1f Acknowledging that the information furnished in connection with the administration of the NYSHIP Retiree Drug Subsidy is being provided to obtain federal funds. The Contractor shall require all sub-contractors, including any plan administrators, if applicable, that submit information required by CMS to obtain the Retiree Drug Subsidy on behalf of NYSHIP to acknowledge that information provided in connection with the subcontract is used for the purpose of obtaining federal funds; and

6.10.1g Acknowledging that its provision of services pursuant to this section of this Agreement is subject to audit and evaluation by the Department of Health and Human Services pursuant to 42 CFR Subpart R or other authority as may be cited by the federal government, as well as by the State of New York pursuant to Appendix A and Appendix B of this Agreement. The Contractor shall comply with any record retention requirements required pursuant to 42 CFR SubPart R in this regard.

6.10.2 The Department acknowledges and agrees that it shall be solely responsible for: (1) providing Creditable Coverage notices required with respect to Retiree Drug Subsidy; and (2) determining whether enrolled individuals are qualifying covered Retirees. The Department shall provide to the Contractor a CMS-verified list of qualifying covered Retirees, as will be updated from time to time;

6.10.3 ***Medicare Advantage Plan:*** A Contractor that offers a Medicare Advantage Plan through NYSHIP shall follow the procedures set forth below:

6.10.3a The MA Plan must follow the regulations and requirements set forth in the CMS Medicare Managed Care Manual (MMCM) as amended. The Department is obligated to follow the rules and regulations in the MMCM as applicable to the employer group.

6.10.3b The Contractor shall agree to follow the procedures set forth in Chapter 2 of the MMCM, Additional Enrollment Request Mechanisms for Employer/Union Sponsored Coverage, which allows an Employer to group enroll its Retirees using a group enrollment process that does not require submission of a signed application by the Retiree. The Contractor must agree to work in cooperation with the Department to enroll individuals into the Contractor's Medicare Advantage Plan as each becomes Medicare eligible in accord with the MMCM process. The Department will follow the process required of the employer group for providing information to each eligible Employee/Retiree in the timeframes defined in the MMCM, as follows:

6.10.3b(1) The Department shall provide advance notice to eligible Enrollees and/or their eligible Dependents that Department intends to enroll them in MA Plan;

6.10.3b(2) The Department shall provide eligible Enrollees and/or their eligible Dependents notice that they may affirmatively opt-out of such enrollment; explain the process to opt-out; and explain any consequences to such action;

6.10.3b(3) The Department shall provide eligible Enrollees and/or their eligible Dependents a summary of benefits offered under the MAPD, an explanation of how to get more information about

the MAPD, and an explanation on how to contact Medicare for information on other Medicare health plan options that might be available; and

6.10.3b(4) The Department shall provide eligible Enrollees and/or their eligible Dependents the information contained in the MMCM Chapter 2 Exhibit 2: Model Employer/Union Group Health Plan Enrollment Request Form, under the heading "Please Read & Sign Below."

6.10.3c The Department shall include in the enrollment files submitted to the Contractor all the information required for the Contractor to submit an enrollment request to CMS, as set forth in the MMCM. The Contractor must advise the Department in writing of any changes to the required enrollment data at least 60 days prior to implementation. If the Contractor receives notification of change from CMS less than 60 days in advance of implementation, the Contractor must advise the Department within 2 Business Days from receipt of such notification from CMS.

6.10.3d.The Contractor shall provide health care benefits to MAPD Members who receive covered services under the terms of this Agreement and the EOC. The Contractor shall furnish MAPD identification cards and EOCs to each MAPD Member enrolled for MAPD Plan benefits.

6.10.3e The Contractor shall agree to follow the procedures set forth in Chapter 2 of the MMCM, Optional Employer/Union MA Disenrollment Request Mechanism, which allows MA Plans to accept voluntary disenrollment elections directly from the employer or union without obtaining a MA disenrollment form from each individual and Group Disenrollment for Employer**/**Union Sponsored Plans, which allows an employer to group disenroll its MAPD Members using a group disenrollment process that does not require submission of a signed disenrollment form. The Contractor must agree to work in cooperation with the Department to disenroll individuals out of the Contractor's Medicare Advantage Plan. The Department shall agree to follow the process and timelines required for group disenrollment as stated in the MMCM including notification of

the group's intention to disenroll the MAPD Members and transmit the information required for the Contractor to submit a disenrollment request to CMS. For individual voluntary disenrollment requests, the Department shall agree to submit disenrollment information which accurately reflects the Department's record of the disenrollment made by each MAPD Member according to the processes the Department has in place.

6.10.3f A Contractor that offer a Medicare Advantage Plan through NYSHIP shall agree to notify the Department when CMS regulations impact the enrollment of a NYSHIP Enrollee or Dependent in the Medicare Advantage Plan. These events include but are not limited to the following:

6.10.3f(1) CMS-generated disenrollments that remove a NYSHIP Enrollee or Dependent from the Medicare Advantage employer group plan;

6.10.3f(2) Disenrollments prompted by MAPD Member correspondence where CMS regulations require the Contractor to act on the MAPD Member's request prior to the Department's notification through the Optional Employer/Union MA Disenrollment Request Mechanism or Group Disenrollment for Employer/Union Sponsored Plans;

6.10.3f(3) Enrollments received from the Department through the Group Enrollment for Employer/Union Sponsored Plans that cannot be processed with CMS. These situations include but are not limited to cases where the NYSHIP Enrollee or Dependent is not enrolled in Medicare Part A or Part B, already enrolled in another Medicare Advantage Plan, has an invalid or missing HICN or does not reside in Service Area; and

6.10.3f(4) Other situations not described above.

6.10.3g The Contractor shall agree that the commencement of coverage for Enrollees and their eligible Dependents will begin as of the requested

effective date, in accordance with CMS regulations, for any eligible NYSHIP individual who makes a timely application for enrollment.

6.10.3h The Department shall report to the Contractor termination of coverage for a MAPD Member who is determined by the Department to be ineligible for benefits in the enrollment files transmitted on the scheduled basis as pursuant to this Section 6.10.0 above. Upon the Department's notification to the Contractor, the coverage of such MAPD Member shall terminate after providing notice to such MAPD Member in accordance with the Department's policy and CMS regulations. The Department is responsible for providing NYSHIP required notice; the Contractor is responsible for providing CMS required notice. Retroactive disenrollment shall not be permitted except in specific situations approved by CMS.

6.10.3i The Contractor must, within fifteen (15) business days from the date the Contractor receives the Low Income Subsidy (LIS) payment from CMS, provide the Department with the detailed information set forth below. The Contractor must refund LIS beneficiaries the low-income premium subsidy payment within the required period of forty-five (45) days from the date the Contractor receives the monies from CMS. The information set forth below must be reported to the Department on a monthly basis and must contain information for each beneficiary, including the NYSHIP Enrollee's identification number. The LIS Premium data report fields must include:

6.10.3i(1) NYSHIP Enrollee's name
6.10.3i(2) NYSHIP Enrollee's social security number
6.10.3i(3) LIS eligible individual's name
6.10.3i(4) LIS eligible individual's social security number
6.10.3i(5) LIS eligible individual's date of birth
6.10.3i(6) LIS eligibility start date
6.10.3i(7) LIS eligibility end date
6.10.3i(8) Monthly subsidy amount received from CMS for the LIS individual
6.10.3i(9) Dual Eligibility indicator
6.10.3i(10) Date LIS payment received from CMS (MM/DD/YYYY)

The total amount reported in the monthly LIS Premium data report must equal the LIS Payments.

6.10.3j The Department acknowledges that a Medicare Part D Late Enrollment Penalty (LEP) may be assessed to a MAPD Member when the Member has a break in Creditable Coverage. To determine the existence of Creditable Coverage, the Contractor shall review the MAPD coverage history by viewing the MAPD NYSHIP enrollment record in the New York Benefits Eligibility & Accounting System (NYBEAS). For those MAPD Members whose NYBEAS record does not confirm continuous Creditable Coverage, the Contractor shall send a Creditable Coverage attestation form to the MAPD Members in accordance with CMS regulations. The Contractor shall bill the MAPD Member directly for any LEP assessed by CMS.

6.10.4 The Department acknowledges that, as a consequence of the Contractor's agreement with the Centers for Medicare and Medicaid Services (CMS) to operate Medicare Advantage plans, under which the Contractor may offer group Medicare Prescription Drug Plans (MAPD Plans) to employer sponsors, the Contractor is required to obtain a written agreement from each employer sponsor that provides that the employer-sponsor may determine how much of an Enrollee's Medicare Part D monthly beneficiary premium it will subsidize, subject to certain restrictions as set forth below, and that the Contractor is required to retain this written agreement and provide access CMS with access to it in accordance with 42 CFR §§423.504(d) and 423.505(d) and (e).

6.10.4a The Department may subsidize different amounts for different classes of Enrollees in the employer-sponsored MAPD Plan provided such classes are reasonable and based on objective business criteria, such as years of service, date of retirement, business location, job category, and nature of compensation (e.g., salaried v. hourly). Different classes cannot be based on eligibility for the Low Income Subsidy.

6.10.4b The Department cannot vary the premium subsidy for individuals within a given class of Enrollees.

6.10.4c The Department cannot charge an Enrollee for prescription drug coverage provided under the MAPD Plan more than the sum of his/her monthly beneficiary premium attributable to basic prescription drug coverage plus 100% of the monthly beneficiary premium attributable to his/her non-Medicare Part D benefits (if any). The Department must pass through direct subsidy payments received from CMS to reduce the amount that the beneficiary pays (or, in those instances where the Enrollee pays premiums on behalf of an eligible spouse or Dependent, the amount paid by the enrollee on behalf of the spouse or Dependent).

6.10.4d For all Enrollees eligible for the Low Income Subsidy, the low income premium subsidy amount will first be used to reduce any portion of the MAPD monthly beneficiary premium paid by the Enrollee (or, in those instances where the Enrollee pays premiums on behalf of a low-income eligible spouse or Dependent, the amount the Enrollee pays on behalf of the spouse or Dependent), with any remaining portion of the premium subsidy amount then applied toward any portion of the MAPD monthly beneficiary premium (including any MA premium) paid by the Department. However, if the sum of the Enrollee's MAPD monthly premium (or the spouse/Dependent's MAPD monthly premium, if applicable) and the Department's MAPD monthly premiums (the total monthly premium) are less than the monthly low-income premium subsidy amount, any portion of the low-income subsidy premium amount above the total MAPD monthly premium must be returned directly to CMS. Similarly, if there is no MAPD monthly premium charged the Enrollee or Department, the entire low-income premium subsidy amount must be returned directly to CMS and cannot be retained by the Contractor, the Department, or the Enrollee (or spouse/Dependent, if applicable).

6.10.4e The Contractor and Department may agree that the Department will be responsible for reducing up-front the MAPD premium contribution required for Enrollees eligible for the Low Income Subsidy. In those instances where the Department is not able to reduce up-front the MAPD premiums paid by the Enrollee (or, the Enrollee/participant, if applicable), the Contractor and the Department may agree that the Contractor shall

directly refund to the Enrollee (or Enrollee/participant, if applicable) the amount of the low-income premium subsidy up to the MAPD monthly premium contribution previously collected from the Enrollee (or spouse/Dependent, if applicable). The Contractor is required to complete the refund within forty-five (45) days of the date the Contractor receives from CMS the low-income premium subsidy amount payment for the low-income subsidy eligible Enrollee.

6.10.4f If the low income premium subsidy amount for which an Enrollee is eligible is less than the portion of the Part D monthly beneficiary premium paid by the Enrollee (or spouse/Dependent, if applicable), then the Department shall communicate to the Enrollee (or spouse/dependent) the financial consequences of the low-income subsidy eligible individual enrolling in the NYSHIP MAPD Plan as compared to enrolling in another Part D plan with a monthly beneficiary premium equal to or below the low income premium subsidy amount.

6.11.0 Disabled Dependent Determinations

6.11.1 The Contractor must establish a process to perform reviews of the Department's PS-451 form and all additional medical information submitted to support Dependent disability determinations. The review must be completed by a Clinical Manager in the United States (preferably in New York State) and a clinical determination must be completed within ten (10) Business Days of receipt of a completed form.

6.11.2 The Contractor must send a determination letter, approved in advance by the Department to the Enrollee and to the Department advising of the determination within three (3) Business Days of determination.

ARTICLE VII: MODIFICATION OF PROGRAM SERVICES

7.1.0 In the event that laws or regulations enacted by the Federal government and/or the State have an impact upon the conduct of this Agreement in such a manner that the Department determines that any design elements or requirements of the Agreement must be revised, the Department shall notify the Contractor of any such revisions and shall provide the Contractor with a reasonable time within which to implement such revisions.

7.2.0 In the event that the NYS and the unions representing State Employees enter into collective bargaining agreements, or the State otherwise requires changes in Plan design elements or requirements of the Agreement, the Department shall notify the Contractor of such changes and shall provide the Contractor with reasonable notice to implement such changes.

7.3.0 To the extent that any of the events as set forth in this Article shall take place and constitute a material and substantial change in the delivery of services that are contemplated in accordance with the terms of the Agreement as of the Effective Date and which the Contractor is required to perform or deliver under the Agreement, either Party may submit a written request to initiate review of the premiums(s) received by the Contractor for services provided and guarantees made by the Contractor under the terms of the Agreement, accompanied by appropriate documentation. The Department reserves the right to request, and the Contractor shall agree to provide additional information and documentation the Department deems necessary to verify that a modification of the premiums or guarantees is warranted. The Department will agree to modify the premiums(s) to the extent necessary to compensate the Contractor for documented additional costs determined by Department to be reasonable and necessary. The Contractor will agree to modify the premium(s) to the extent necessary to relieve the Department of the obligation to pay for Program services that are no longer required. The Department will agree to modify guarantees as determined by the Department to be necessary to reflect Program modifications. Should the Parties agree to modify the premium(s) and/or guarantees, such approval shall be subject to written amendment and approval by OSC and the AG. The Contractor shall implement changes as required by the Department with or without final resolution of any premium proposal.

ARTICLE VIII: ELIGIBILITY AND EFFECTIVE DATES OF COVERAGE

8.1.0 Each Employee and/or Dependent shall be eligible for benefits under this Agreement in accordance with the Department's prevailing eligibility criteria, in accordance with the Regulations of the President of the Civil Service Commission.

8.2.0 Coverage for Enrollees and enrolled Dependents pursuant to the Contractor's Plan shall take effect in accordance with the Department's prevailing eligibility criteria, in compliance with the Regulations of the President of the Civil Service Commission. These regulations shall be the sole determining factor with respect to effective dates of coverage. On behalf

of the President of the Civil Service Commission, the Department shall exercise sole authority to determine the interpretation and application of these regulations.

8.3.0 The Department shall transmit enrollment information provided by the Enrollee to the Contractor. The Contractor shall use the enrollment data transmission protocol and encryption method required by the Department for that purpose. The current data transmission protocol must be either FTP or Secure FTP, and the current encryption methodology must be PGP or as otherwise specified by the Department. If Secure FTP is used, it must be compatible with the OpenSSH implementation of Secure FTP. Further, the Applicant must agree to execute the Department's Third Party Connection Agreement and Third Party User Agreement and their amendments, as required, and any other agreement or protocol required by the Department to ensure the security of its data transmissions. Enrollments processed in accordance with the Department's procedures for executing such enrollment and the reports generated as a result of these procedures shall be the sole means of determining valid enrollment for Plan benefits.

ARTICLE IX: CERTIFICATES

9.1.0 Within 30 days of notification by the Department of an Enrollee's enrollment, the Contractor shall issue to each Enrollee a Certificate and to each MAPD Enrollee an EOC which shall state the benefits to which each is entitled. Such certificate shall summarize the provisions of this Agreement principally affecting the Enrollee/MAPD member.

9.2.0 The Certificate and EOC shall provide a clear, easily understood description of the benefits provided by the Contractor and shall include a comprehensive statement of any exclusions or limitations of the benefits.

9.3.0 Benefits shall be provided by the Contractor in performance of the Plan and in accordance with the terms and conditions of this Agreement, including but not limited to Exhibits B and C to this Agreement.

ARTICLE X: COORDINATION OF BENEFITS

10.1.0 A Coordination of Benefits provision shall be applied by the Contractor in accordance with applicable statutes and regulations of the New York State Department of Financial Services, as may be amended from time to time, or in accordance with the regulations appropriate to the applicable jurisdiction.

ARTICLE XI: CESSATION OF BENEFITS

11.1.0 Except as otherwise provided by law, all benefits to be provided by the Contractor in performance of the Plan, pursuant to the terms and conditions of this Agreement, shall cease upon the termination of this Agreement.

11.2.0 An Enrollee's benefits may cease prior to the termination of this Agreement in accordance with the Certificate's or EOC's provisions pertaining to cessation of benefits.

11.3.0 An Enrollee's coverage may be terminated by the Contractor for cause; however, in no case shall an Enrollee's benefits be terminated by the Contractor without 30 days prior written notification to the Department.

ARTICLE XII: RECORDS: INFORMATION TO BE MAINTAINED BY THE CONTRACTOR

12.1.0 The Contractor shall maintain records from which may be determined the names of all Enrollees and Enrollees' Dependents, if any, enrolled hereunder, and the type of benefits in force for each such Enrollee, together with the date when any benefits became effective and the effective date of any increase or decrease in the type of benefits. Such records shall be based on information provided to the Contractor by the Department. The Contractor shall promptly update its records to reflect the information transmitted from the Department's records.

12.2.0 The Department and the Enrollee shall furnish to the Contractor all information which the Contractor may reasonably require with regard to any matters pertaining to the enrollment of the Enrollee under this Agreement. The Department agrees to allow the Contractor reasonable access to documents, books and records of the Department which may have a bearing on the benefits provided by the Contractor or calculation of the Contractor's premium payments as set forth under this Agreement.

12.3.0 Should the Contractor request that any special reports be produced from the data in the Department's enrollment records, the Contractor may, at the sole discretion of the Department, be required to bear the production cost of such reports. Such requests shall be honored by the Department at its sole discretion.

ARTICLE XIII: REPORTS

13.1.0 The Contractor must submit financial, management, health services utilization, and Medicare Part D administration reports, including but not limited to those identified in

Article VI of this Agreement, as may be required by the Department for its use in the review and management of NYSHIP.

13.2.0 Upon request of the Department, the Contractor shall furnish to the Department a copy of any member satisfaction survey prepared by Contractor and, where the survey methods permit, shall separately identify the survey results of NYSHIP Enrollees. If the number of NYSHIP Enrollees in the Contractor's plan is nominal as measured by either the gross number of Enrollees or as a percentage of the Contractor's total Enrollees, or if the Department requires an additional satisfaction survey, the Department will meet with the Contractor to agree on the scope of the desired survey and respective responsibility for any associated costs.

13.3.0 Upon request of the Department, the Contractor shall furnish to the Department evidence of maintenance of satisfactory contingent reserve funds and/or existence of an adequate risk sharing arrangement or reinsurance contracts and/or copies of filed examination reports by the New York State Department of Health and Department of Financial Services or the appropriate regulatory and/or oversight agency in the Contractor's jurisdiction.

13.4.0 Health Services Utilization Reports will include, but not be limited to, the annual Schedule M, Complaint/Grievance/External Appeal Reports The Contractor shall, upon request of the Department, provide such other reports when required by one or more members of the Joint Labor Management Committee which participate in the Department's Health Insurance Program.

13.5.0 If the Department desires additional reports not otherwise specified in this Agreement, New York Public Health Law Article 44, or by New York Insurance Law Article 43, or if the Department desires to change the format of those reports, the Department and Contractor agree to discuss the development and costs related to such additional reports or amended formats.

13.6.0 The Department shall keep all Contractor-specific reports and information strictly confidential and shall not disclose the reports, any information obtained from the reports, or any information obtained through an audit of the Contractor to any other Contractor, insurer or to the public except as directed by a court of competent jurisdiction or as necessary to comply with applicable New York State or federal law or regulations. Except as required by law, regulatory requirements or in connection with normal business

operations, no such records may be otherwise used or released to any person by the Contractor, the Department, their respective agencies or representatives, either during the term of this Agreement or in perpetuity thereafter. Deliberate or repeated accidental breach of this provision may, at the sole discretion of the Department, be grounds for termination of this Agreement. Notwithstanding the above, the Department as it deems necessary may use aggregate data as reflective of information contained in the reports submitted by the Contractor.

ARTICLE XIV DETERMINATION OF RATE BASIS, PAYMENT OF PREMIUMS AND GRACE PERIOD

14.1.0 The Department shall establish the premium rates to be paid to the Contractor during the term of this Agreement in accordance with the following:

14.1.1 The Contractor shall submit a premium rate or rates to the Department no later than September 15 of each year, for the following calendar year. The premium rate or rates shall be accompanied by the Contractor's most recent available year-to-date loss ratio for the community pool in which Enrollees are included.

14.1.2 The premium rates for a Contractor whose Service Area lies wholly within the State shall be guaranteed rates under 11 NYCRR 52.42 (b). The premium rate guaranteed shall be the presently prevailing approved or filed premiums or the Contractor's best estimate of the expected approved or filed premium rates for the following year adjusted by any prospective or retrospective adjustments required for guaranteed premium rates under 11 NYCRR 52.42 (b). The Contractor, upon request shall provide an explanation for the premium rate that has been quoted. The Contractor shall also provide the Department with copies of all loss ratio reports required by Section 4308 (h) (1) of the Insurance Law at the same time such reports are submitted to the NYS Department of Financial Services.

14.1.3 In the event Contractor has multiple geographic rating regions within the State, the Contractor may submit premium rates for each geographical rating region. The Department reserves the right for its own purposes, to blend, or to request the Contractor to blend, the guaranteed rates into a single premium rate to be the basis for payment to the Contractor. Any blended rate must be weighted based on the number of Enrollees and Dependents enrolled with the Contractor in each region. If the Contractor performs the blending, the Contractor must submit

documentation as requested by the Department for its review of the resulting blended rate.

14.1.4 In the event the Contractor has multiple geographic rating regions within and outside New York State, the premium rate submitted for the geographic regions outside New York State shall be based upon the premium rate submitted for a geographic rating region within New York State.

14.1.5 If the Contractor has no premium rate(s) subject to filing with or approval by the NYS Department of Financial Services then the premium rate(s) determined as payable by the Department shall be based on the premium rate(s) filed with and approved, or pending approval, by the appropriate regulatory and/or oversight agency in the Contractor's jurisdiction.

14.2.0 In the event that the premium rate paid by the Department to the Contractor during the term of this Agreement, is revised by the NYS Department of Financial Services or other appropriate regulatory and/or oversight agency in the Contractor's jurisdiction, the Department shall adjust the Department's share of the premium paid to the Contractor to reflect such revision. Such adjustment shall be calculated by the Department to recapture excess Department premium paid by the Department to the Contractor if the premium rate paid exceeds the approved premium rate, or the Department shall distribute additional Department share premium due to the Contractor if the premium rate paid is less than the approved premium rate. The Department may make such adjustment through subsequent year premium rates paid to the Contractor, or at its option, adjust the premium rate paid to the Contractor prior to renewal of this Agreement.

14.3.0 The Department shall make premium payments to the Contractor on the first day of each coverage period, starting with the effective date of this Agreement; the coverage period shall be determined by the Department. The total amount of premium payment for each coverage period shall be calculated by the Department by multiplying the number of Enrollees enrolled in the Plan by the premium rate then in effect for the respective types of coverage.

14.4.0 The payment of any premium shall not maintain the benefits under this Agreement in force beyond the day immediately preceding the next due date, except as follows:

14.4.1 A grace period of forty-five (45) days shall be granted by the Contractor to the Department for the payment of premium accruing under this Agreement. During

the grace period, this Agreement shall remain in force, but the Department shall be liable to the Contractor for the payment of premium accruing for the period the Agreement continues in force.

14.4.2 If the Department fails to pay any premium payment within the grace period, this Agreement may be terminated on the last day of such grace period, except that if written notice is given by the Department to the Contractor prior to the expiration of the grace period that this Agreement is to be terminated before the expiration of the grace period, this Agreement shall be terminated as of the date of receipt of such written notice by the Contractor or the date specified by the Department for such termination, whichever is later. In such instance, subject to the Department's review and approval, the Department shall be liable to the Contractor for the payment of the pro-rata premium payment for the period commencing with the last due date and ending with the date of termination.

14.4.3 On an annual basis coinciding with the end of the State's fiscal year, the Statewide Financial System (SFS) will be shut down for approximately one to two week during which no payment transactions will be processed. The shutdown typically occurs between the last week of March and first week of April. The SFS may also be shut down for short periods during other times of the year for maintenance or upgrades or other reasons that are outside the control of the Department. Payments delayed as a result of the SFS shut down will be processed on the first business day after the SFS returns to operation.

ARTICLE XV: COMMUNICATIONS AND MARKETING PROGRAM

15.1.0 During an Option Transfer Period established by the Department, the Department shall provide potential Enrollees with option transfer procedural information, including but not limited to the amount of the Enrollee contribution to the premium cost of the Contractor. Upon written notice of the Department's approval of the Contractor's participation for the subsequent Plan Year, the Contractor shall prepare marketing materials and other general educational material for distribution to Employees and Retirees which shall be factual and easily understood. Written benefit descriptions must include all applicable copayments, and significant limitations and exclusions. The material must state that there may be additional exclusions and/or limitations which are not listed but are available on request. A description of any changes in the level of benefits and/or method of delivery of such benefits since the last offering must be included. Information regarding the availability of

an Enrollee Certificate of Insurance, EOC and Summary of Benefits and Coverage must also be included.

15.2.0 The Contractor must comply with the federal Patient Protection and Affordable Care Act (ACA), to produce, revise, distribute, and translate upon request a Summary of Benefits and Coverage (SBC) accurately describing the NYSHIP group benefits and coverage. The SBC must be provided to the Department in an electronic format as a PDF document no later than 30 days before the beginning of each Plan Year. The Contractor must distribute a SBC to any eligible Employee or Retiree contacting the Contractor or the Department to request a copy in accordance with ACA requirements for timely distribution. Annually at plan renewal and upon material modification of the SBC, the Contractor must provide timely notice to all current Enrollees via a postcard, plan materials, or other ACA-compliant means of notification, of how to view or obtain a copy of the SBC from the Contractor.

15.3.0 Upon request of the Department, the Contractor shall provide a representative to answer questions at a Health Fair and/or make a presentation to potential Enrollees, make available copies of Certificates of Insurance and/or EOCs, applicable riders and the SBC that pertains to this Agreement.

15.4.0 The Contractor shall not distribute generic marketing material to potential Enrollees if, in the Department's judgment, these materials contain eligibility, benefit descriptions, or other provisions which are substantially inconsistent with those provisions applicable to NYSHIP Enrollees covered by the Contractor.

15.5.0 The Department shall have the right to review and approve drafts of all printed materials proposed for distribution to Enrollees. The Contractor's electronic or print media marketing campaigns shall be accurate, professional and appropriate, and shall be subject to the Department's review, if specifically addressed to Enrollees. The Department shall provide the Contractor with guidelines for acceptable marketing materials.

15.6.0 The Department shall notify the Contractor of the due date for submitting proposed marketing materials for use during the Option Transfer Period. The Department shall complete a review of the proposed marketing materials prior to the beginning of the Option Transfer Period. The Contractor shall have the right to prepare, submit and clarify factual information about its benefits contained in such publications prior to distribution.

Upon approval of the Contractor's marketing material, the Department will authorize the Contractor to distribute it.

15.7.0 In resolving Enrollee grievances, the materials given to potential Enrollees must be considered. The Contractor shall be liable for any errors, omissions or misrepresentations contained in the materials which the Contractor has prepared under this Agreement and upon which any Enrollee has relied to his/her detriment.

ARTICLE XVI: AUDIT AUTHORITY

16.1.0 In addition to the Audit Authority requirements specified in Appendices A and B to this Agreement, the Contractor acknowledges that the Department has the authority to conduct financial and performance audits of the Contractor's delivery of HMO services in accordance with the Agreement and any applicable State and federal statutory and regulatory authorities;

16.2.0 Such audit activity may include, but not necessarily be limited to, the following activities:

16.2.1 Review of the Contractor's activities and records relating to the documentation of its performance under this Agreement in areas such as determination of Enrollee or Dependent eligibility and application of various Department program administrative features (e.g., dependent survivor benefits, reasonable adjudication of disabled dependent status).

16.2.2 Comparison of the information in the Contractor's enrollment file to that on the enrollment reports issued to the Contractor by the Department.

16.2.3 Assessment of the Contractor's information, utilization and demographic systems to the extent necessary to verify accuracy of data on the reports provided to the Department in accordance with Article XIII - Reports, of this Agreement.

16.3.0 The Contractor shall maintain and make available documentary evidence necessary to perform such reviews. Documentation maintained and made available by the Contractor may include, but is not limited to, source documents, books of account, subsidiary records and supporting work papers, claim documentation, pertinent contracts, subcontracts, Provider agreements, and correspondence;

16.4.0 The Contractor shall make available for audit all data in its computerized files that is relevant to and subject to the Agreement. Such data may, at Department discretion, be

submitted to the Department in machine-readable format, or the data may be extracted by the Department, or by the Contractor under the direction of the Department;

16.5.0 The Contractor shall support audits conducted by the Department, Office of the State Comptroller or any designee of these agencies, as follows, including but not limited to:

16.5.1 Providing ample audit resources including access to the Contractor's online system to the Department and OSC at their respective offices through the date of the final financial settlement of the Agreement;

16.5.2 The capability and contractual right of the State to effectively audit the Contractor's Provider Network, including the use of statistical sampling audit techniques and the extrapolation of errors; and

16.5.3 Providing full cooperation with all Department and/or OSC audits consistent with the requirements of Appendices A and B and as set forth in this Agreement including provision of access to protected health information and all other confidential information when required for audit purposes as determined by the Department and/or OSC as appropriate. The Contractor must respond to all State (including OSC) audit requests for information and/or clarification within fifteen (15) Business Days. The Contractor must perform timely reviews and respond in a time period specified by the Department to preliminary findings submitted by the Department or the OSC's audit unit in accordance with the requirements of Article XVI "Audit Authority" in this Agreement. Such audits may include, but are not limited to both electronically submitted and paper claims. Use of statistical sampling of claims and extrapolation of findings resulting from such samples shall be acceptable techniques for identifying claims errors. The Contractor shall facilitate audits of Network Providers, including on-site audits, as requested by the Department and/or OSC;

16.6.0 The Contractor shall, at the Department's request, and in a time period specified by the Department, search its files, retrieve information and records, and provide to the auditors such documentary evidence as they require. The Contractor shall make sufficient resources available for the efficient performance of audit procedures;

16.7.0 The Contractor shall comment on the contents of any audit report prepared by the Department and transmit such comments in writing to the Department within 30 days of receiving any audit report. The response will specifically address each audit

recommendation. If the Contractor agrees with the recommendation, the response will include a work plan and timetable to implement the recommendation. If the Contractor disagrees with an audit recommendation, the response will give all details and reasons for such disagreement. Resolution of any disagreement as to the resolution of an audit recommendation shall be subject to the dispute resolution procedures set forth in Appendix B of this Agreement.

16.8.0 If the Contractor has an independent audit performed of the records relating to this Agreement, a certified copy of the audit report shall be provided to the Department within 10 days after receipt of such audit report by the Contractor.

16.9.0 The audit provisions contained herein shall in no way be construed to limit the audit authority or audit scope of the Office of the State Comptroller as set forth in either Appendix A of this Agreement, Standard Clauses for All New York State Contracts, or Appendix B, Standard Clauses for All Department Contracts.

ARTICLE XVII: CONFIDENTIALITY

In addition to the Confidentiality requirements specified in Appendices A and B to this Agreement, the following provisions shall apply:

17.1.0 All claims and enrollment records relating to the Agreement are confidential and shall be used by the Contractor solely for the purpose of carrying out its obligations under the Agreement and for providing the Department with material and information as may be specified elsewhere in this Agreement;

17.2.0 Except as directed by a court of competent jurisdiction, or as necessary to comply with applicable New York State or federal law(s) or regulation(s), or with the written consent of the Enrollee and Dependent, no records may be otherwise used or released to any party other than the Department by the Contractor, its officers, employees, agents, consultants, Key Subcontractors or Affiliates either during the term of the Agreement or in perpetuity thereafter. Deliberate or repeated accidental breach of this provision may, at the sole discretion of the Department, be grounds for termination of the Agreement;

17.3.0 The Contractor, its officers, employees, agents, consultants and/or any Key Subcontractors or Affiliates agree to comply, during the performance of the Agreement, with all applicable federal and State privacy, security and confidentiality statutes, including but not limited to the Personal Privacy Protection Law (New York Public Officer's Law

Article 6-A, as amended), and its implementing regulations, policies and requirements, for all material and information obtained by the Insurer through its performance under the Agreement, with particular emphasis on such information relating to enrollees and dependents;

17.4.0 The Contractor shall be responsible for assuring that any Agreement between the Contractor and any of its officers, employees, agents, consultants and/or Key Subcontractors or Affiliates contains a provision that strictly conforms to the various confidentiality provisions of this Agreement;

17.5.0 The Contractor shall promptly advise the Department of all requests made to the Contractor for information regarding the performance of services under this Agreement, including, but not limited to, requests for any material and information provided by the Department, except as required by Key Subcontractors or Affiliates solely for the purpose of fulfilling the Insurer's obligations under this Agreement or as required by law.

ARTICLE XVIII: USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

18.1.0 For purposes of this Agreement, the term "Protected Health Information" ("PHI") means any information, including demographic information collected from an individual, that relates to the past, present, or future physical or mental health or condition of an individual, to the provision of health care to an individual, or to the past, present, or future payment for the provision of health care to an individual, that identifies the individual, or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual. Within the context of this Agreement, PHI may be received by the Contractor from the Department or may be created or received by the Contractor on behalf of the Department. All PHI received or created by the Contractor as a consequence of its performance under this Agreement is referred to herein collectively as "Department's PHI."

18.2.0 The Contractor acknowledges that the Department administers on behalf of New York State several group health plans as that term is defined in HIPAA's implementing regulations at 45 CFR Parts 160 and 164, and that each of those group health plans consequently is a "covered entity" under HIPAA. These group health plans include NYSHIP, which encompasses the Empire Plan as well as participating health maintenance organizations; the Dental Plan, and the Vision Plan. In this capacity, the Department is responsible for the administration of these "covered entities" under

HIPAA. The Contractor further acknowledges that the Department has designated NYSHIP and the Empire Plan as an Organized Health Care Arrangement (OHCA), respectively. The Contractor further acknowledges that the Contractor is a HIPAA "business associate" of the Department as a consequence of the Contractor's provision of services to and/or on behalf of the Department within the context of the Contractor's performance under this Agreement, and that the Contractor's provision of such services may involve the disclosure to the Contractor of individually identifiable health information from the Department or from other parties on behalf of the Department, and also may involve the Contractor's disclosure to the Department of individually identifiable health information as a consequence of the services performed under this Agreement.

18.3.0 Permitted Uses and Disclosures of the Department's PHI: The Contractor may use and/or disclose the Department's PHI solely in accordance with the terms of this Agreement. In addition, the Contractor may use the Department's PHI to provide data aggregation services relating to the health care operations of the Department. Further, the Contractor may use and disclose the Department's PHI for the proper management and administration of the Contract if such use is necessary for the Contractor's proper management and administration or to carry out the Contractor's legal responsibilities, or if such disclosure is required by law or the Contractor obtains reasonable assurances from the person to whom the information is disclosed that it shall be held confidentially 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 the Contractor of any instances of which it is aware in which the confidentiality of the PHI has been breached.

18.4.0 Nondisclosure of the Department's PHI: The Contractor shall not use or further disclose the Department's PHI other than as permitted or required by this Agreement or as otherwise required by law. The Contractor shall limit its uses and disclosures of PHI when practical to the information comprising a Limited Data Set and in all other cases to the minimum necessary to accomplish the intended purpose of the PHI's access, use, or disclosure.

18.5.0 Safeguards: The Contractor shall use appropriate, documented safeguards to prevent the use or disclosure of the Department's PHI otherwise than as provided for by this Agreement. The Contractor shall maintain a comprehensive written information security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities, to reasonably and appropriately protect the confidentiality, integrity and

availability of any electronic PHI that it creates, receives, maintains, or that it transmits on behalf of the Department pursuant to this Agreement.

18.6.0 Breach Notification:

18.6.1 ***Reporting:*** The Contractor shall report to the Department any breach of unsecured PHI, even if the breach is not reportable under HIPAA, including any use or disclosure of the Department's PHI otherwise than as provided for by this Agreement, of which the Contractor becomes aware. Further, the Contractor shall report to the Department any security incident of which it becomes aware. "Security incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information, or interference with system operations in an information system. The Contractor shall notify the Department within five (5) Business Days of the date the Contractor becomes aware of the event.

18.6.2 ***Required Information:*** The Contractor shall provide the following information to the Department within ten (10) Business Days of discovery except when, despite all reasonable efforts by the Contractor to obtain the information required, circumstances beyond the control of the Contractor necessitate additional time. Under such circumstances, the Contractor shall provide to the Department the following information as soon as possible and without unreasonable delay, but in no event later than thirty (30) Days from the date of discovery:

18.6.2a the date of the breach incident;

18.6.2b the date of the discovery of the breach;

18.6.2c a brief description of what happened;

18.6.2d a description of the types of unsecured PHI that were involved;

18.6.2e identification of each individual whose unsecured PHI has been, or is reasonably believed to have been, accessed, acquired, or disclosed during the breach;

18.6.2f A brief description of what the Contractor is doing to investigate the breach, to mitigate harm to individuals and to protect against any further breaches; and

18.6.2g any other details necessary to complete an assessment of the risk of harm to the individual.

18.6.3 The Department will be responsible for providing notification to individuals whose unsecured PHI has been or is reasonably believed to have been accessed, acquired or disclosed as a result of a breach, as well as the Secretary and the media, as required by 45 CFR Part 164.

18.6.4 The Contractor shall maintain procedures to sufficiently investigate the breach, mitigate losses, and protect against any future breaches, and to provide a description of these procedures and the specific findings of the investigation to the Department upon request.

18.6.5 For purposes of this Agreement, "Unsuccessful Security Incidents" include activity such as pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service, and any combination of the above, so long as no such incident results in unauthorized access, use, or disclosure of electronic PHI.

18.6.6 The Contractor shall mitigate, to the extent practicable, any harmful effects from any use or disclosure of PHI by the Contractor not permitted by this Agreement.

18.7.0 Associate's Agents: The Contractor shall require all of its agents or Key Subcontractors or Affiliates to whom it provides the Department's PHI, whether received from the Department or created or received by the Contractor on behalf of the Department, agree to the same restrictions and conditions on the access, use, and disclosure of PHI that apply to the Contractor with respect to the Department's PHI under this Agreement.

18.8.0 Availability of Information to the Department: The Contractor shall make available to the Department such information and documentation as the Department may require regarding any disclosures of PHI by the Contractor to fulfill the Department's obligations to provide access to, to provide a copy of, and to account for disclosures of the Department's PHI in accordance with HIPAA and its implementing regulations. The Contractor shall provide such information and documentation within a reasonable amount of time of its receipt of the request from the Department.

18.9.0 Amendment of the Department's PHI*:* The Contractor shall make the Department's PHI available to the Department as the Department may require to fulfill the Department's obligations to amend individuals' PHI pursuant to HIPAA and its implementing regulations. The Contractor shall, as directed by the Department, incorporate any amendments to the Department's PHI into copies of the Department's PHI as maintained by the Contractor.

18.10.0 Internal Practices: The Contractor shall make its internal practices, policies and procedures, books, records, and agreements relating to the use and disclosure of the Department's PHI, whether received from the Department or created or received by the Contractor on behalf of the Department, available to Department and/or the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by the Department and/or the Secretary for purposes of determining the Department's compliance with HIPAA and its implementing regulations.

18.11.0 Termination:

18.11.1 This Agreement may be terminated by the Department at the Department's discretion if the Department determines that the Contractor, as a business associate, has violated a material term of this Article or of the Agreement with respect to the Contractor's obligations under this Article.

18.11.2 ***Disposition of the Department's PHI:*** At the time this Agreement is terminated, the Contractor shall, if feasible, return or destroy all of the Department's PHI, whether received from the Department or created or received by the Contractor on behalf of the Department, that the Contractor still maintains in any form and retain no copies of such information. Alternatively, if such return or destruction is not feasible, the Contractor shall extend indefinitely the protections of this Agreement to the information and shall limit further uses and disclosures to those purposes that make the return or destruction of the Department's PHI infeasible.

18.12.0 Indemnification: The Contractor agrees to indemnify, defend and hold harmless the State, the Department and Department's respective employees, officers, agents or other members of its workforce (each of the foregoing hereinafter referred to as "Indemnified Party") against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with any breach of this Article or from any acts or omissions related to this Article by the Contractor or its

employees, officers, Key Subcontractors or Affiliates, agents or other members of its workforce. Accordingly, the Contractor shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, lost profits, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results from the Contractor's acts or omissions hereunder. The Contractor's obligation to indemnify any Indemnified Party under this Article shall survive the expiration or termination of this Agreement.

18.13.0 Miscellaneous:

18.13.1 ***Amendments*****:** This Article may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed by authorized representatives of the Parties. The Parties agree to take such action as is necessary to amend this Article from time to time as is necessary to achieve and maintain compliance with the requirements of 45 CFR Parts 160-164.

18.13.2 ***Survival*****:** The respective rights and obligations of the Business Associate (Contractor), and Covered Entity under HIPAA as set forth in this Article shall survive termination of this Agreement.

18.13.3 ***Regulatory References*****:** Any reference herein to a federal regulatory section within the Code of Federal Regulations shall be a reference to such section as it may be subsequently updated, amended or modified.

18.13.4 ***Interpretation*****:** Any ambiguity in this Article shall be resolved to permit covered entities to comply with HIPAA.

ARTICLE XIX: NOTICES

19.1.0 All notices permitted or required hereunder shall be in writing and shall be transmitted either:

19.1.1 via certified or registered United States mail, return receipt requested;

19.1.2 by facsimile transmission;

19.1.3 by personal delivery;

19.1.4 by expedited delivery service; or

19.1.5 by e-mail.

19.2.0 Such notices shall be addressed as follows or to such different addresses as the Parties may from time-to-time designate:

State of New York [Agency Name]

Name: (TBD)
Title: Director, Employee Benefits Division
Address:
Telephone Number: (TBD)
Facsimile Number: (TBD)
E-Mail Address: (TBD)

[Contractor Name]

Name: (TBD)
Title: (TBD)
Address: (TBD)
Telephone Number: (TBD)
Facsimile Number: (TBD)
E-Mail Address: (TBD)

19.3.0 Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

19.4.0 The Parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other Party sent in accordance herewith. The Parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the Parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

ARTICLE XX: TERMINATION

20.1.0 In addition to the Termination of Agreement requirements specified in Appendices A and B to this Agreement, the following provisions shall apply:

20.1.1 The State retains the right to cancel the Agreement without cause and in its sole discretion, provided that the Department shall give written notice to the Contractor not less than thirty (30) Days prior to the date upon which termination shall become effective, such notice to be made via registered or certified mail, return receipt requested or hand delivered. The date of such notice shall be deemed to be the date of postmark in the case of mail or the date of hand delivery. This provision should not be understood as waiving the State's right to terminate the Agreement for cause or to stop work immediately for unsatisfactory work, but is supplementary to that provision. In the event of cancellation without cause by the State, the State agrees to negotiate a payment based on the Fixed Hourly Rates as set forth in the Contractor's Financial Proposal for hours actually worked by Contractor personnel on a given project activity, not to exceed the fixed fee of the project activity;

20.1.2 If the Contractor ceases conducting business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or avails itself of or becomes subject to any proceeding under the Federal Bankruptcy Act or any statute of any state relating to insolvency or the protection of rights of creditors, the State, in its sole discretion, may terminate the Agreement or may exercise such other remedies as shall be available under the Agreement, at law and/or equity;

20.1.3 No delay or omission to exercise any right, power or remedy accruing to the State or Department upon breach or default by the Contractor under the Agreement shall impair any such right, power or remedy, or shall be construed as a waiver of any such breach or default, or any similar breach or default thereafter occurring, nor shall any waiver of a single breach or default be deemed a waiver of any subsequent breach or default. All waivers must be in writing;

20.1.4 If, due to default that remains uncured for the period provided herein, a third party shall commence to perform Contractor's obligations under the Agreement, the State shall thereafter be released from all obligations to Contractor hereunder, including any obligation to make payment to Contractor, provided however that the State shall continue to be obliged to pay for any and all Project Services provided prior to any such date. If the State employs a third party to perform Contractor's obligations under the Agreement, Contractor shall be liable for the payment of any cost differential that the State incurs as a result of having to employ such third party to cure or resolve the issue;

20.1.5 In the event of the Contractor's default, in addition to availing itself of specific remedies set forth in the Agreement, the State may pursue all legal and equitable remedies for breach. In addition to pursuing any other legal or equitable remedies, the State shall have the right to take one or more of the following actions:

20.1.5a terminate the Agreement in whole or in part;

20.1.5b suspend, in whole or in part, payments due Contractor under the Agreement; and

20.1.5c pursue equitable remedies to compel Contractor to perform.

20.1.6 The Contractor shall be liable for any and all excess costs for remedies pursued by the State, and for costs incurred by the State in procuring alternate Services;

20.1.6a ***For Violation of Procurement Lobbying Law***. The Department reserves the right to terminate the Agreement in the event it is determined by the Department in its sole discretion that the certification filed by the Contractor in accordance with §139-j and/or §139-k of the New York State Finance Law was intentionally false or intentionally incomplete. Upon such finding, the Department may, at its sole option, exercise its termination right by providing 10 days written notification to the Contractor, or providing notice in accordance with other written notification terms in the Agreement;

20.1.6b ***For Violation of Section 5-a of the Tax Law***. The Department reserves the right to terminate the Agreement in the event that Contractor fails to file a certification pursuant to section 5-a of the Tax Law or the Tax Department or OFT discovers that the certification(s) filed by the Contractor pursuant to section 5-a of the Tax Law is/are false. Upon such finding(s), the Department may exercise its termination right by providing written notification to the Contractor;

20.1.6.c ***Termination Notice***. Notices required by this section shall be provided consistent with Article 9 of Appendix B; and

20.1.6.d ***Mitigation of Costs***. The Contractor shall not undertake any additional or new contractual obligations on or after the date of return receipt notice without the prior written approval of the State. On or after the date of return receipt notice and during the termination notice period, the Contractor shall take all

commercially reasonable and prudent actions to close out unnecessary outstanding, existing obligations as economically as possible for the State.

ARTICLE XXI: IRAN DIVESTMENT ACT

21.1.0 As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) was charged with the responsibility to develop a list (Prohibited Entities List) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list was posted to the OGS website on August 10, 2012.

21.2.0 By entering into this Contract, Contractor (or any assignee) certifies that it is not on the "Entities Determined To Be Non-Responsive Bidders/Offerors Pursuant to The New York State Iran Divestment Act of 2012" list (Prohibited Entities List) posted on the OGS website at http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf and further certifies that it will not utilize on the Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that after should it seek to renew or extend the Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of the Contract will be required to certify that it is not on the Prohibited Entities List before the Department may approve a request for Assignment of the Contract.

21.3.0 During the term of the Contract, should the Department receive information that a person (as defined in State Finance Law 165-a) is in violation of the above-referenced certification, the Department will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within ninety (90) days after the determination of such violation, then the Department shall take such action as may be appropriate and provided for by law, rule or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

The Department reserves the right to reject any request for renewal, extension, or assignment for an entity that appears on the Prohibited Entities List prior to the renewal, extension or assignment of the Contract, and pursue a responsibility review with Contractor should it appear on the Prohibited Entities List hereafter.

ARTICLE XXII: VENDOR RESPONSIBILITY

22.1.0 The Contractor is required to provide the Department with an updated Vendor Responsibility Questionnaire when requested to do so by the Department throughout the term of the Agreement. Regardless, the Contractor is required to report to the Department any material changes in the information reported in its initial Vendor Responsibility Questionnaire.

22.2.0 The Contractor shall at all times during the Agreement term remain responsible. The Contractor agrees, if requested by the Commissioner or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

22.3.0 Suspension of Work (for Non-Responsibility): The Commissioner or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Agreement, at any time, when he or she discovers information that call into question the responsibility of the Contractor. In the event of such suspension, the Contractor must comply with the terms of the suspension order. Agreement activity may resume at such time as the Commissioner or his or her designee issues a written notice authorizing a resumption of performance under the Agreement.

22.4.0 Termination (for Non-Responsibility): Upon written notice to the Contractor, a reasonable opportunity to be heard with the appropriate Department officials or staff, the Contract may be terminated by the Commissioner or his or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of the Department or his or her designee to be non-responsible. In such an event, the Commissioner or his or her designee may complete the requirements of the Agreement in any manner he or she may deem advisable and pursue legal or equitable remedies for breach.

Contractor: _____

Contract Number: _____

Agency Certification: "In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract."

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

Date: _____ By: _____

Name: _____

Title _____

(Contractor)

Date: _____ By _____

Name: _____

Title _____

STATE OF)
) ss:
COUNTY OF)

On the _____ day of _____, _____ , before me personally came _____, to me known, and known to me to be the person who executed the above instrument, who, being duly sworn by me, did for her/himself depose and say that (s)he is the _____ of _____ the corporation or organization described in and which executed the above instrument; and that (s)he signed his/her name thereto.

_____
NOTARY PUBLIC

My commission expires:_____

Approved as to Form:

ERIC SCHNEIDERMAN
ATTORNEY GENERAL

By: _____

Date: _____

Approved:

THOMAS P.DINAPOLI
COMPTROLLER

By: _____

Date: _____

Section VII: Glossary of Terms

Affiliate means a person or organization which, through stock ownership or any other affiliation, directly, indirectly, or constructively controls another person or organization, is controlled by another person or organization, or is, along with another person or organization, under the control of a common parent.

Agreement means the contract that results from the Specifications between the Department and the Contractor.

Business Day(s) means every Monday through Friday, except for days designated as Business Holidays, except as required by CMS requirements.

Business Holiday(s) means legal holidays observed by the State. For Medicare Advantage Plan and Medicare Advantage Plans with Prescription Drug Plan, Business Holidays must additionally comply with Chapter 3, section 80.1 of the Medicare Managed Care Manual.

Calendar Year/Annual means a period of 12 months beginning with January 1 and ending with December 31.

Centers for Medicare and Medicaid Services (CMS) means the Federal Agency within the United States Department of Health and Human Services that is responsible for administration and oversight of various Medicare programs.

Child(ren) means children under 26 years of age, including natural children, legally adopted children, children in a waiting period prior to finalization of adoption, Enrollee stepchildren and children of the Enrollee's domestic partner. Other children who reside permanently with the Enrollee in the Enrollee's household and are chiefly dependent on the Enrollee are also eligible, subject to a statement of dependence and documentation.

Clinical Manager – means licensed PhD, clinical psychologist, licensed professional registered nurse, or licensed master's level certified social worker with a minimum of three to five years of previous position-related clinical experience.

Commercial Plan means the Plan submitted by the HMO pursuant to this Agreement through which each Enrollee is entitled to receive comprehensive health benefits not obtained through a Medicare Advantage Plan.

Coverage means the health services and insurance benefits provided by the Contractor pursuant to this Agreement.

Creditable Coverage means prescription drug coverage that is deemed equivalent to Medicare Part D.

Day(s) means calendar day(s) unless otherwise noted in this Agreement.

DCS or Department means the New York State Department of Civil Service.

Dependent means the spouse, domestic partner, and children under twenty-six (26) years of age of an Enrollee. Young adult dependent children age twenty-six (26) or over are also eligible if they are incapable of supporting themselves due to mental or physical disability acquired before termination of their eligibility for coverage under the New York State Health Insurance Program.

Dependent Survivor means the unremarried spouse, dependent child, or domestic partner who has not acquired another domestic partner, of an Enrollee who died after having had at least ten (10) years of service, who was covered as a dependent of the deceased Enrollee at the time of the Enrollee's death and who elects to continue coverage under NYSHIP following the three (3) month extended benefits period.

Disabled Lives Benefit means the benefits provided to an Enrollee who is Totally Disabled on the date coverage ends. The benefits are provided on the same basis as if coverage had continued with no change until the day the Enrollee is no longer Totally Disabled or for ninety (90) days after the date the coverage ended, whichever is earlier.

Employee means any person defined as an Employee as defined in 4 NYCRR Part 73, as amended, or as modified by collective bargaining agreement.

Employer means Employer as defined in 4 NYCRR Part 73, as amended.

Enrollee(s) means those Employees and Retirees eligible for NYSHIP coverage as set forth in the regulations of the President of the Civil Service Commission at 4 NYCRR Part 73, and who have elected to receive HMO coverage under the terms and conditions of this Agreement.

Enrollee Certificate of Insurance (Certificate) means a comprehensive description of benefits provided through the HMO plan by the Contractor pursuant to this Agreement.

ET means prevailing Eastern Time.

Health Maintenance Organization (HMO) means any person, natural or corporate, or any groups of such persons who enter into an arrangement, agreement or plan, or any combination of arrangements or plans, which proposes to provide or offer, or which does provide or offer, a comprehensive health service plan for which the HMO has current certification or licensure in accordance with the statutes and regulations of the State of New York and/or may operate outside the State of New York by federal qualification subject to appropriate jurisdiction for certification and oversight.

HMO Member means the Enrollee or any Dependent that is eligible, enrolled and covered by the HMO Plan.

Joint Labor Management Committee (JLMC) means a committee consisting of representatives of the State's collective bargaining units, the Department of Civil Service, and the Governor's Office of Employee Relations (GOER) which is charged with the responsibility to cooperatively develop and oversee administration of health care programs for State-represented Employees and to make mutually agreed upon changes to health insurance plan benefits.

Key Subcontractor(s) means those vendors with whom the HMO subcontracts to provide Program Services and incorporated as a part of the HMO's Program Team. Key Subcontractors include all vendors who will provide $100,000 or more in Program Services over the term of the Agreement that results from these Specifications, as well as any vendor who will provide Program Services in an amount lower than the $100,000 threshold and who is a part of the HMO's Program Team.

Medicare Advantage Plan (MAP) means health benefits coverage offered under a policy or contract by an Medicare Advantage organization that includes a specific package of health benefits offered at a uniform premium and uniform level of cost-sharing to all Medicare beneficiaries residing in the Service Area (or segment of the Service Area) of the MAP.

Medicare Advantage with Prescription Drug (MAPD) Plan means health benefits coverage offered under a policy or contract by a Medicare Advantage organization that includes a specific

package of health benefits, as well as qualified prescription drug coverage, as defined at 42 CFR 423.100 and in section 20.1 of Chapter 5 of the Prescription Drug Benefit Manual, under Part D of the Social Security Act, as amended.

MAPD Evidence of Coverage (EOC) means a comprehensive description of services and benefits provided to MAPD Members through the MAPD Plan. The EOC also defines the rights and responsibilities of the Member and the MA Organization under the MAPD Plan.

MAPD Member(s) means the MAPD Enrollee(s) or any Dependent that is eligible, enrolled and covered by the MAPD Plan.

MAPD Enrollee(s) means the eligible Employee or Retiree who is eligible to receive MAPD benefits under the rules, regulations and conditions of the NYSHIP and CMS, and is enrolled in the MAPD Plan.

NYS means New York State.

NYSHIP means the New York State Health Insurance Program.

Offeror means a person or entity that submits a Proposal in response to these Specifications.

Option Transfer Period means the period of time established by the Employer during which an Employee may transfer enrollment from one available health benefit plan (either an HMO or indemnity plan) to a different available plan.

Participating Employer (PE) means a public authority, public benefit corporation, or other public agency, subdivision, or quasi-public organization of the State which elects, with the approval of the President of the Civil Service Commission, to participate in the New York State Health Insurance Program.

Periodic Recruitment means the State's reserved right to consider additional HMOs starting on the one year anniversary of the award start date or at any time deemed to be in the best interests of the State. Potential additional HMOs shall be required to submit an original bid document and, where applicable, bids shall be evaluated under the original "Specifications For Health Maintenance Organizations Participation in the New York State Health Insurance Program" requirements. An addendum containing additional applicable statutory requirements

currently in effect at the time of the periodic recruitment may be added to the recruitment. The State is not required to award on offers under Periodic Recruitment.

Plan means the proposed health plan submitted by the HMO for NYSHIP..

Plan Year means the period from January 1st to December 31st in each year covered by the Agreement, unless specified otherwise.

President means the President of the New York State Civil Service Commission and the Commissioner of the DCS.

Program Services means all of the services to be provided by the Contractor as set forth in these Specifications.

Proposal or Submission means the HMO response to the 2016 HMO Specification including all responses to supplemental requests for clarification, information, or documentation submitted during the course of the Procurement.

Regulations of the President of the Civil Service Commission means those regulations promulgated by the DCS pursuant to Civil Service Law, Article XI, as amended, including but not limited to those rules and regulations found at 4 New York Code of Rules and Regulations (NYCRR) Part 73, as amended.

Required Annual Submission means the HMO's response to program requirements in years 2 – 5 of the Agreement that result from these Specifications, including all responses to supplemental requests for clarification, information or documentation during the term of the Agreement.

Retiree means any person defined as a Retiree pursuant to the terms of 4 NYCRR Part 73, as amended.

Service Area means the approved counties in which an HMO is authorized to offer services.

Specifications means the document entitled "2016 HMO Specifications for the New York Health Insurance Program (NYSHIP)" dated April 23, 2015.

State means New York State as a whole.

Summary of Benefits and Coverage (SBC) : means a federally mandated document that accurately describes the NYSHIP group benefits and coverage.

SERFF means the System for Electronic Rate and Form Filing system used by the DFS for rate filings.

Total Disability and Totally Disabled means that because of a medical or mental health/substance abuse condition, the Enrollee, cannot perform his/her job or the Dependent cannot perform the normal activities of a person that age.

Vestee means a former Employee who is entitled to continue benefits under NYSHIP because he/she has met all the requirements for NYSHIP coverage as a Retiree, except for age eligibility for pension, at the time employment terminates.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.

January 2014

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds $50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds $10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed $85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of $50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of

any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds $5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $25,000.00,

whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of $100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over $25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than $1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded

the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.
To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. **IRAN DIVESTMENT ACT**. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:
http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

APPENDIX B

STANDARD CLAUSES FOR ALL DEPARTMENT CONTRACTS

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1. INTEGRATION

The contract executed between the Department and the Contractor (or Purchase Order issued by the Department) is hereinafter referred to as the Agreement. The Agreement, including all Exhibits and Appendices, including this Appendix B, copies of which are attached thereto, and incorporated therein by reference, constitutes the entire agreement between the Parties for the purpose of the fulfillment of Program Services or Project Services. All prior agreements, representations, statements, negotiations and undertakings are superseded hereby.

All statements made by the Department shall be deemed to be representations and not warranties.

2. EXECUTORY PROVISION

Section 112 of the State Finance Law requires that any contract made by a State department which exceeds fifty thousand dollars ($50,000) in amount be first approved by the Comptroller of the State of New York before becoming effective. The Parties recognize that, if the Agreement is for fifty thousand dollars or more, it is wholly executory until and unless approved by the Comptroller of the State of New York.

3. CHOICE OF LAW

The Parties agree that the Agreement shall be interpreted according to the laws of the State of New York, except where the federal supremacy clause requires otherwise. The Contractor shall be required to bring any legal proceeding against the Department arising from the Agreement in New York State courts located in Albany County.

4. DISPUTE RESOLUTION

Except as otherwise provided in the Agreement, any dispute raised by the Contractor concerning any question of fact or law arising under the Agreement which is not disposed of by mutual agreement of the Parties shall be decided initially by the designee of the President of the Civil Service Commission (President). A copy of the written decision shall be furnished to the Contractor. The Parties shall proceed diligently with the performance of the Agreement and shall comply with the provisions of such decision and continue to comply pending further resolution of any such dispute as provided herein. The decision of the designee of the President shall be final and conclusive unless, within ten (10) Days from the receipt of such decision, the Contractor furnishes the President a written appeal. In the event of an appeal, the President shall promptly review the initial decision, and confirm, annul, or modify it. The decision of the President shall be final and conclusive unless, as determined by a court of competent jurisdiction, it violates one of the provisions of section 7803 of the Civil Practice Law and Rules. Pending final decision of any Article 78 proceeding hereunder, both Parties shall proceed diligently with the performance of the Agreement in accordance with the President's decision.

5. WAIVER OF BREACH

No term or provision of the Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. No consent by a Party to, or waiver of, a breach under the Agreement shall constitute a consent to, a waiver of, or excuse for any other, different or subsequent breach.

6. NEW YORK STATE REQUIREMENTS

The Contractor acknowledges that it is bound by the terms of Appendix A, Standard Clauses For All New York State Contracts, which is attached and incorporated by reference to the Agreement.

7. OUTSIDE OF SCOPE

The Contractor agrees that any and all work performed outside the scope of the Agreement shall be deemed to be gratuitous and not subject to any charge, cost or payment of any kind.

8. NON-ASSIGNABILITY

Neither the rights nor the obligations of the Contractor under the Agreement may be conveyed, assigned, delegated, or otherwise transferred in any manner whatsoever by the Contractor, either in whole or in part, without the prior written approval of the Department.

9. NOTIFICATION

All notices permitted or required by the Agreement to be given by one Party to the other shall be in writing and shall be transmitted either (1) via certified or registered mail, return receipt requested; (2) by facsimile transmission; (3) by personal delivery; (4) by expedited delivery service; or (5) by e-mail.

10. INDEMNIFICATION

The Contractor agrees to indemnify, defend and save harmless the Department, the State, its officers, agents and employees, for any claims or losses the Department, the State or any individuals may suffer when such claims or losses result from the claims of any person or organization for any and all injuries or damages caused by the negligent acts or omissions of the Contractor, its officers, employees, agents, consultants and/or sub-contractors in performance of the Agreement. Furthermore, the Contractor agrees to indemnify, defend and save harmless the Department and the State, its officers, agents, and employees from any and all claims or losses caused by the acts or omissions of any and all contractors, sub-contractors, consultants and any other persons, firms, or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of the Agreement and from all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of the Agreement, and against any loss, damages or actions, including, but not limited to, costs and expenses, for violation of proprietary rights, copyrights, patents, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use, or disposition of any material, information or data furnished under the Agreement, or based on any libelous or otherwise unlawful matter contained in such material, information or data, except as otherwise provided in the Article entitled "Patent Copyright or Proprietary Rights Infringement" of this Appendix B.

The Contractor also shall provide indemnification against all losses, and/or cost expenses (including reasonable counsel fees) that may be incurred by reason of the Contractor's breach of any term, provision, covenant, warranty, or representation contained herein and/or in connection with the enforcement of the Agreement or any provision hereof.

The Department does not agree to any indemnification provisions in any documents attached hereto that require the Department or the State of New York to indemnify or save harmless the Contractor or third parties.

Notwithstanding anything to the contrary in the Agreement, neither the Department nor the Contractor shall be liable to the other for any special, consequential, or punitive damages, or loss of profits or revenues, whether such damages are alleged as a result of tort

(including strict liability), contract, warranty, or otherwise, arising out of or relating to either Party's acts or omissions under the Agreement.

11. PATENT, COPYRIGHT OR PROPRIETARY RIGHTS INFRINGEMENT

The Contractor, solely at its expense, shall defend any claim or suit which may be brought against the Department or the State for the infringement of United States patents, copyrights or proprietary rights arising from the Contractor's or the Department's use of any software, equipment, data, materials and/or information of any kind prepared, developed or furnished by the Contractor in connection with performance of the Agreement and, in any such suit, shall satisfy any final judgment for such infringement. The Department shall give the Contractor written notice for such claim or suit and full right and opportunity to conduct the defense thereof, together with full information and all reasonable cooperation.

If principles of governmental or public law are involved, the State of New York may participate in the defense of any action identified under this Article, but no costs or expenses shall be incurred upon the account of the Contractor without the Contractor's written consent.

If, in the Contractor's opinion, any software, equipment, data, materials and/or information prepared, developed or furnished by the Contractor is likely to or does become the subject of a claim of infringement of a United States patent, copyright or proprietary right, then, without diminishing the Contractor's obligation to satisfy any final award, the Contractor may, with the Department's prior written approval, substitute other equally suitable software, equipment, materials, data and/or information. In the event that an action at law or in equity is commenced against the Department arising out of a claim that the Department's use of any software, equipment, materials and/or information under the Agreement infringes on any patent, copyright, or proprietary right, such action shall be forwarded by the Department to the Contractor for defense and indemnification under this Article and to the Office of the Attorney General of the State of New York together with a copy of the Agreement. If upon receipt of such request for defense, or at any time thereafter, the Contractor is of the opinion that the allegations in such action, in whole or in part, are not covered by the defense and indemnification set forth herein, the Contractor shall immediately notify the Department and the Office of the Attorney General of the State of New York, in writing, and shall specify to what extent the Contractor believes it is and is not obligated to defend and indemnify under the terms and conditions of the Agreement. The Contractor shall in such event protect the interests of the State of New York and shall take the steps necessary to secure a continuance to permit the State of New York to appear and defend its interest in cooperation with the Contractor, as is appropriate, including any jurisdictional defenses which the State shall have.

12. DATE/TIME WARRANTY

The Contractor warrants that products furnished pursuant to the Agreement shall be able to accurately process, date/time data (including, but not limited to, calculating, comparing, and sequencing) transitions, including leap year calculations. Where a Contractor proposes or an acquisition requires that specific products and/or services must perform as a package or system, this warranty shall apply to the products and/or services as a system.

Where the Contractor is providing ongoing services, including but not limited to: i) consulting, integration, code or data conversion, ii) maintenance or support services, iii) data entry or processing, or iv) contract administration services (e.g. billing, invoicing, claim processing), the Contractor warrants that services shall be provided in an accurate and timely manner without interruption, failure, or error due to the inaccuracy of the Contractor's business operations in processing date/time data (including, but not limited to, calculating, comparing, and sequencing) various date/time transitions, including leap year calculations. The Contractor shall be responsible for damages resulting from any delays,

errors, or untimely performance resulting there from, including but not limited to the failure or untimely performance of such services.

This Date/Time Warranty shall survive beyond termination or expiration of the Agreement through a) ninety (90) days or b) the Contractor's or product manufacturer/developer's stated date/time warranty term, whichever is longer. Nothing in this warranty statement shall be construed to limit any rights or remedies otherwise available under the Agreement for breach of warranty.

13. VIRUS WARRANTY

Product contains no viruses, either known to the Contractor or which reasonably should have been known to the Contractor exercising due diligence. The Contractor is not responsible for viruses introduced at the Department's site.

14. TITLE AND OWNERSHIP WARRANTY

The Contractor warrants, represents and conveys (i) full ownership, clear title free of all liens, or (ii) the right to transfer or deliver perpetual license rights to any Product(s) transferred to the Department under the Agreement. The Contractor shall be solely liable for any costs of acquisition associated therewith. The Department may require the Contractor to furnish appropriate written documentation establishing the above rights and interests as a condition of payment. The Department's request or failure to request such documentation shall not relieve the Contractor of liability under this warranty.

15. USE RESTRICTIONS AND INTELLECTUAL PROPERTY

The Parties agree that all work by the Contractor for the Department is intended as work for hire. The Parties agree that the Contractor's work is specifically ordered and commissioned for use as contributions to a collective work, or is other such work as specified by section 101(2) of the U.S. Copyright Act [17 U.S.C. 101(2)], and is intended to be a work for hire that is made for the use and ownership of the State of New York and the Department. Furthermore, the Department and the Contractor agree that the State of New York and the Department are the owners of all copyrights regarding the work. The Contractor warrants to the State of New York and the Department that the Contractor, and all of its subcontractors and their employees, who have been, or may be used in regard to the Agreement, forfeits all past or future claims of title or ownership to the work produced.

Materials such as forms and publications used by the Contractor in the course of its performance under the Agreement which have been agreed upon by the Parties as generic materials are specifically excluded from this provision.

16. OWNERSHIP/TITLE TO PRODUCT DELIVERABLES

For purposes of this Article, the term "Department" is understood to mean the Department acting on behalf of the State.

(A) Definitions

1. Product(s):
   A deliverable furnished under the Agreement by or through the Contractor, including existing and custom Product(s), including, but not limited to: a) components of the hardware environment; b) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings); c) third party software; d) modifications, customizations, custom programs, program listings, programming tools, data, modules, components; and e) any properties embodied therein, whether in tangible or intangible form (including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, source code, object code).

2. Existing Product(s):
   Tangible Product(s) and intangible licensed Product(s) which exist prior to the commencement of work under the Agreement. The Contractor retains the burden of proving that a particular product existed before commencement of the Agreement.

3. Custom Product(s):
   Product(s), preliminary, final or otherwise, which are created or developed by the Contractor, or its subcontractors, partners, employees, or agents under the Agreement for the benefit of the Department.

(B) Title to Project Deliverables

The Contractor acknowledges that it is commissioned by the Department to perform services detailed in the Agreement. Unless otherwise specified in writing in the Agreement, the Department shall have ownership and/or license rights as follows:

1. Existing Product(s):
   a) Hardware - Title and ownership of Existing Hardware Product shall pass to Department upon acceptance.

   b) Software - Title and ownership to Existing Software Product(s) delivered by the Contractor under the Agreement which is normally commercially distributed on a license basis by the Contractor or other independent software vendor/proprietary owner ("Existing Licensed Product"), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with the Contractor or other independent software vendor/proprietary owner ("ISV"). Effective upon acceptance, such Product shall be licensed to the Department in accordance with the Contractor or ISV owner's standard license agreement, provided, however, that such standard license, must, at a minimum: (a) grant the Department a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless the Contractor advises the Department as part of the Contractor's bid proposal that adaptation will violate existing agreements or statutes and the Contractor demonstrates such to the Department's satisfaction) and distribute Existing Licensed Product to the Department up to the license capacity stated in the work order with all license rights necessary to fully effect the general business purpose(s) stated in the Agreement and (b) recognize the State of New York as the licensee. Where these rights are not otherwise covered by the ISV's standard license agreement, the Contractor shall be responsible for obtaining these rights at its sole cost and expense. The Department shall reproduce all copyright notices and any other legend of ownership on any copies authorized under this paragraph.

2. Custom Product(s):
   Effective upon creation of Custom Product(s), the Contractor hereby conveys, assigns and transfers to State the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all trademark and copyrights. The Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Product(s) are protected against unauthorized copying, reproduction and marketing by or through the Contractor, its agents, employees, or subcontractors. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge,

skills, ideas, concepts, techniques and experience developed under the Agreement in the course of the Contractor's business.

Where payment for Custom Product does not involve Certificates of Participation (COPS) pursuant to Article 5-A of the State Finance Law or other third party financing, the Department may, by providing written notice thereof to the Contractor, elect in the alternative to take a non-exclusive perpetual license to Custom Products in lieu of State taking exclusive ownership and title to such Products. In such case, the Department shall be granted a non-exclusive perpetual license to use, execute, reproduce, display, perform, adapt and distribute Custom Product as necessary to fully effect the general business purpose(s) as stated herein.

In the event that the Contractor wishes to obtain ownership rights to Custom Product(s), the sale or other transfer shall be at fair market value as determined by the Parties at the time of such sale or other transfer, and must be pursuant to a separate written agreement in a form acceptable to the State which complies with the terms of this paragraph.

3. Documentation, Data & Reports
The Department shall own title to all documentation, drawings, (e.g., engineering drawings, system diagrams, logic/schematics, plans, reports, training, maintenance or operating manuals), including network design, equipment configurations and other documentation prepared or developed pursuant to the Agreement, whether preliminary, final or otherwise. The Contractor shall deliver to the possession of the Department all work-in-progress documentation as it becomes available, but in no case longer than thirty (30) days after creation.

17. FORCE MAJEURE

Neither Party to the Agreement shall be liable or deemed to be in default for any delay or failure in performance under the Agreement resulting directly or indirectly from acts of God, civil or military authority, acts of public enemy, wars, riots, civil disturbances, insurrections, accident, fire, explosions, earthquakes, floods, the elements, acts or omissions of public utilities or strikes, work stoppages, slowdowns or other labor interruptions due to labor/management disputes involving entities other than the Parties to the Agreement, or any other causes not reasonably foreseeable or beyond the control of a Party. The Parties are required to use best efforts to eliminate or minimize the effect of such events during performance of the Agreement and to resume performance of the Agreement upon termination or cessation of such events.

18. TIME OF THE ESSENCE

The Department and the Contractor acknowledge and agree that time is of the essence for the Contractor's performance under the Agreement.

19. RIGHTS AND REMEDIES

The rights, duties and remedies set forth in the Agreement shall be in addition to, and not in limitation of, rights and obligations otherwise available at law.

20. FEDERAL AND STATE COMPLIANCE

The Contractor shall ensure that its employment practices comply with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended.

The Contractor shall ensure compliance with the Americans With Disabilities Act (42 USC §2101 et. seq.) such that programs and services provided during the course of performance

of the Agreement shall be accessible under Title II of the Americans With Disabilities Act and as otherwise applicable under the Americans With Disabilities Act.

21. TAXES

It shall be understood that the Department, as an agency of the State of New York, is not liable for the payment of any sales, use, excise, or other form of tax however designated, levied or imposed, and shall agree to reimburse the Contractor for same only if taxes would have been incurred through the Department's normal business operations.

22. INDEPENDENT CONTRACTOR

The Parties agree that the Contractor is an independent contractor, and the Contractor, its officers, employees, agents, consultants and/or sub-contractors in the performance of the Agreement shall act in an independent capacity and not as agents, officers or employees of the State or the Department. Neither the Contractor nor any sub-contractor shall thereby be deemed an agent, officer, or employee of the State. The Contractor agrees, during the term of the Agreement, to maintain at the Contractor's expense those benefits to which its employees would otherwise be entitled by law, including health benefits, and all necessary insurance for its employees, including worker's compensation, disability and unemployment insurance, and to provide the Department with certification of such insurance upon request. The Contractor remains responsible for all applicable federal, State, and local taxes, and all FICA contributions.

23. NO THIRD PARTY BENEFICIARIES

Nothing contained in the Agreement, expressed or implied, is intended to confer upon any person, corporation, other than the Parties hereto and their successors in interest and assigns, any rights or remedies under or by reason of the Agreement.

24. HEADINGS OR CAPTIONS

The headings or captions contained within the Agreement are intended solely for convenience and reference purposes and shall in no way be deemed to define, limit or describe the scope or intent of the Agreement or any provisions thereof.

25. PARTIAL INVALIDITY

Each Party agrees that it shall perform its obligations under the Agreement in accordance with all applicable federal and State laws, rules, and regulations, policies and/or guidelines now or hereafter in effect. If any term or provision of the Agreement shall be found to be illegal or unenforceable, then, notwithstanding such term or provision, the Agreement shall remain in full force and effect, and such term or provision shall be deemed stricken.

26. CONFLICT OF INTEREST

The Contractor shall ensure that its officers, employees, agents, consultants and/or sub-contractors comply with the requirements of the New York State Public Officers Law ("POL"), as amended, including but not limited to sections 73 and 74, as amended, with regard to ethical standards applicable to State employees, and particularly POL sections 73(8)(a)(i) and (ii) regarding post-employment restrictions affecting former State employees. Additionally, the Contractor shall ensure that no violation of these provisions will occur by reason of the Contractor's proposal for or negotiation and execution of the Agreement or in its delivery of services pursuant to the Agreement. If, during the term of the Agreement, the Contractor becomes aware of a relationship, actual or potential, which may be considered a violation of the POL or which may otherwise be considered a conflict of interest, the Contractor shall notify the Department in writing immediately. Should the Department thereafter determine that such employment is inconsistent with State law; the Department shall so advise the Contractor in writing, specifying its basis for so determining, and may require that the contractual or employment relationship be canceled. Failure to

comply with these provisions may result in suspension or cancellation of the Agreement and criminal proceedings as may be required by law. The Contractor is required to make full disclosure of any circumstances that could affect its ability to perform in complete compliance with the POL. Any questions as to the applicability of these provisions should be addressed by the Contractor to the New York State Ethics Commission, 540 Broadway, Albany, NY 12207 (518) 408-3976.

27. AUDIT AUTHORITY

The Contractor acknowledges that the Department and the Office of the State Comptroller have the authority to conduct financial and performance audits of the Contractor's delivery of Program Services (or Project Services) in accordance with the Agreement and any applicable State and federal statutory and regulatory authorities. Such audit activity may include, but not necessarily be limited to, the review of documentary evidence to determine the accuracy and fairness of all items on the Contractor's submission of claims for payment under the Agreement, and the review of any and all activities relating to the Contractor's performance and administration of the Agreement.

The Contractor shall make available documentary evidence necessary to perform such reviews. Documentation made available by the Contractor may include, but is not limited to, source documents, books of account, subsidiary records and supporting work papers, claim documentation and pertinent contracts and correspondence.

The audit provisions contained herein shall in no way be construed to limit the audit authority or audit scope of the Office of the State Comptroller as set forth in Appendix A of the Agreement - Standards Clauses for All New York State Contracts.

28. CONFIDENTIALITY

All records maintained by the Contractor and relating to the Agreement are confidential and shall be used by the Contractor and its officers, employees, and subcontractors or agents solely for the purpose of carrying out its obligations under the Agreement. Except as directed by a court of competent jurisdiction or as may be permitted or required by applicable New York State or federal law or regulations, no such records may be otherwise used or released to any person by the Contractor, its employees, subcontractors or agents, either during the term of the Agreement or in perpetuity thereafter. Deliberate or repeated accidental breach of this provision may, at the sole discretion of the Department, be grounds for termination of the Agreement.

The Contractor shall promptly advise the Department of all requests made to the Contractor for information regarding the performance of services under the Agreement, including any information provided by the Department, except as required by subcontractors or agents solely for the purpose of carrying out obligations under the Agreement or as required by law.

The Contractor shall be responsible for assuring that any agreement between the Contractor and any of its officers, agents and employees or applicable subcontractors contains a provision that conforms strictly to the provisions of this Article.

29. INFORMATION SECURITY REQUIREMENTS

In accordance with the Information Security Breach and Notification Act (ISBNA) (General Business Law §889-aa, State Technology Law §208), Contractor shall be responsible for complying with provisions of the ISBNA and the following terms contained herein with respect to any private information (as defined in ISBNA) received by Contractor under the Agreement (Private Information) that is within the control of the Contractor either on the Department's information security systems or the Contractor's information security system (System). In the event of a breach of the security of the System (as defined by ISBNA),

Contractor shall immediately commence an investigation, in cooperation with the Department, to determine the scope of the breach and restore security of the System to prevent any further breaches. Contractor shall also notify the Department of any breach of the security of the System immediately following discovery of such breach.

Except as otherwise instructed by the Department, Contractor shall, to the fullest extent possible, first consult with and receive authorization from the Department prior to notifying any individuals, the State Office of Cyber Security and Critical Infrastructure Coordination (CSCIC), the State Consumer Protection Board and the Office of the Attorney General (OAG) or any consumer reporting agencies of a breach of the security of the System or concerning any determination to delay notification due to law enforcement investigations. Contractor shall be responsible for providing the notice to all such required recipients and for all the costs associated with providing such notice. Contractor shall be liable for any other costs associated with noncompliance of ISBNA if caused by the Contractor or Contractor's agents, officers, employees, or subcontractors. Nothing herein shall in any way impair the authority of the OAG to bring an action against the Contractor to enforce the provisions of ISBNA or limit Contractor's liability for any violation of the ISBNA. Additional information relative to the law and the notification process is available at:
http://www.cscic.state.ny.us/security/securitybreach

Contemporaneous with the execution of the Agreement, the Contractor and its designees shall execute the Department's Third Party Connection and Data Exchange Agreement and any other protocol required by the Department, and shall ensure its employees, agents and designees complete the related Third Party Acceptable Use Policy and Agreement if applicable, to ensure the security of data transmissions and other information related to the administration of the Agreement. This request may be waived by the Department in its sole discretion.

30. NONDISCLOSURE OF CONFIDENTIAL INFORMATION

Except as may be required by applicable law or a court of competent jurisdiction, the Contractor, its officers, agents, employees, and subcontractors shall maintain strict confidence with respect to any Confidential Information to which the Contractor, its officers, agents, employees, and subcontractors have access in the course of the Contractor's performance under the Agreement. For purposes of the Agreement, all State information of which the Contractor, its officers, agents, employees and subcontractors becomes aware during the course of performing services for the Department shall be deemed to be Confidential Information (oral, visual or written). Notwithstanding the foregoing, information that falls into any of the following categories shall not be considered Confidential Information:

(a) information that is previously rightfully known to the receiving party without restriction on disclosure;
(b) information that becomes, from no act or failure to act on the part of the receiving party, generally known in the relevant industry or is in the public domain; and
(c) information that is independently developed by the Contractor without use of confidential information of the State.

The Contractor shall hold the State and the Department harmless from any loss or damage to the State or the Department resulting from the disclosure by the Contractor, its officers, agents, employees, and subcontractors of such Confidential Information.

The Contractor shall provide for its officers, agents, employees, and subcontractors to acknowledge and execute a nondisclosure agreement containing substantially the terms described in this Article, if requested to do so by the Department or the State.

This representation shall survive termination of the Agreement.

31. FREEDOM OF INFORMATION LAW

Disclosure of information and material provided to the Department by the Contractor in the course of the Contractor's performance under the Agreement shall be permitted consistent with the laws of the State of New York, and specifically the Freedom of Information Law (FOIL), Article 6 of the Public Officers Law. The Department shall take reasonable steps to protect from public disclosure any of the records relating to the Contractor's performance under the Agreement that otherwise are exempt from disclosure under FOIL.

If the Contractor believes that any information or material provided to the Department constitutes trade secret information that should be exempted from FOIL disclosure, the Contractor must, at the time of the materials' submission, request the exemption in writing, specifically identifying the material by page number, line, or other appropriate designation, and provide a particularized explanation as to why the material constitutes trade secret information and how the disclosure of the identified information would cause substantial injury to the Contractor's competitive position. The material sought to be protected from disclosure must be clearly marked in yellow highlighter, on a duplicate copy of the submission and may be provided in hardcopy or on a CD. Generically marking all material as "Confidential" will not be considered adequate for the purpose of this Article.

The Department's receipt of the Contractor's submission of material and the Contractor's request for protection of the material from FOIL disclosure does not constitute a determination that the information is exempt from disclosure under FOIL. In the event any information or material is requested pursuant to FOIL, the Department will address each party's interests fully in accordance with the procedures required by Article 6 of the Public Officers Law.

32. TERMINATION OF AGREEMENT

In addition to any termination provisions specified elsewhere in the Agreement, the following provisions also shall apply:

The Agreement may be terminated by mutual written agreement of the Parties.

The Agreement may be terminated by the Department for cause upon the failure of the Contractor to comply with the terms and conditions of the Agreement, including any exhibits incorporated herein, provided that the Department shall give the Contractor written notice via registered or certified mail, return receipt requested, or hand delivery, such written notice to specify the Contractor's failure and the termination of the Agreement. Termination shall be effective ten (10) Business Days after receipt of such notice unless the Contractor, in the opinion of the Department, has cured such failure. The Contractor agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination. Upon termination for cause, the Department shall have the right to award a new contract to another contractor. Termination for cause shall create a liability upon the Contractor for actual damages incurred and for all reasonable additional costs incurred in reassigning the Agreement.

The Agreement may be terminated if the Department deems that termination would be in the best interest of the State provided that the Department shall give written notice to the Contractor not less than thirty (30) Days prior to the date upon which termination shall become effective, such notice to be made via registered or certified mail, return receipt requested or hand delivered. The date of such notice shall be deemed to be the date of postmark in the case of mail or the date of hand delivery.

The Agreement may be terminated immediately in the event the Department determines that funds are unavailable. The Department agrees to provide notice to the Contractor as soon as it becomes aware that funds are unavailable in the event of termination under this paragraph. If the initial notice is via oral notification, the Department shall provide written notice immediately thereafter. The Department shall be obligated to pay the Contractor only for the expenditures made and obligations incurred by the Contractor until such time as notice of termination or received either orally or in writing by the Contractor from the Department.

In the event of termination for any reason, the Contractor shall not incur new obligations for the terminated portion. The Contractor agrees, after consultation with the Department, to cancel such outstanding obligations as the Contractor deems appropriate in the exercise of sound business judgment.

Upon termination of the Agreement each Party shall, if applicable, return to the other all papers, materials, and other properties of the other Party held by each for purposes of performance under the Agreement. In addition, each Party shall assist the other Party in orderly termination of the Agreement and the transfer of all aspects hereof, tangible, and intangible, as may be necessary to ensure the orderly administration of the State program.

33. CONTRACTOR PERSONNEL

The Contractor shall designate an Account Executive, who shall be the contact person for all matters arising under the Agreement.

The Contractor agrees to be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries, and management of its personnel. These functions shall be carried out by the Contractor in accordance with the provisions of the Agreement and with all applicable federal and State laws and regulations.

The Contractor is required to commit key personnel for the administration of all aspects of the Agreement. In the event that any of the key personnel will be or are unavailable for the performance of their duties, the Contractor will designate and propose to the Department an equally qualified alternate with full authority to act for the unavailable key person.

The Contractor shall notify the Department in writing of any changes in the key personnel designated for performance of the Agreement. This shall include any changes in the personnel designated to bind the Contractor.

The Department reserves the right to demand the reassignment or cancellation of assignment to duties under the Agreement of any Contractor personnel so assigned. The Department shall not exercise the authority unreasonably. The Contractor agrees to replace any employees so reassigned or canceled with an employee of equal or better qualifications. If the Department exercises its right under this provision, it agrees to provide written notice to the Contractor setting forth its reasons with specificity.

34. OPERATIONAL CONTACTS

The Contractor shall maintain appropriate corporate and/or legal authority, which shall include, but not be limited to, the maintenance of an organization capable of delivering Program Services in accordance with the Agreement and the authority to do business in the State of New York or any other governmental jurisdiction in which Program Services are to be delivered pursuant to the Agreement. The Contractor also shall maintain operations, financial and legal staff that shall be directly available to the Department's operations, financial and legal staff, respectively. For purposes of the Agreement, maintenance of such staff and staff availability by the Contractor shall in no way create any agency relationship between the Department and the Contractor.

The Contractor acknowledges and agrees that no aspect of the Contractor's performance under the Agreement is contingent upon Department personnel or the availability of Department resources, with the exception of all proposed actions of the Contractor specifically identified in the Agreement as requiring the Department approval. With respect to such approval, the Department shall act promptly and in good faith.

The Contractor must cooperate fully with any other contractors who may be engaged by the Department relative to the Agreement.

The Contractor must ensure that all contacts by the Contractor personnel with other New York State agencies, external organizations (Federal Agencies, Unions, etc.) which result in any charge, cost or payment of any kind, must receive prior written authorization from the Department's Contract Manager.

35. SUBCONTRACTING

If allowed in the solicitation instrument (e.g., Request for Proposal, Invitation for Bids, etc.) that results in the Agreement, the Contractor may arrange for specified portion(s) of its responsibilities under the Agreement to be subcontracted to a Key Subcontractor(s). A "Key Subcontractor" means that vendor(s) with whom the Contractor subcontracts to provide any portion of Program Services. If the Contractor determines to subcontract a portion(s) of Program Services, the Key Subcontractors must be clearly identified and the nature and extent of its involvement in and/or proposed performance under the Agreement must be fully explained by the Contractor to the Department. The Contractor retains ultimate responsibility for all Program Services performed under the Agreement.

All subcontracts shall be in writing and shall contain provisions, which are functionally identical to, and consistent with, the provisions of the Agreement including, but not be limited to, the body of the Agreement, Appendix A - Standard Clauses For All New York State Contracts, Appendix B - Standard Clauses for All Department Contracts and if applicable as determined by the Department, Appendix C - Third Party Connection and Data Exchange Agreement. Unless waived in writing by the Department, all subcontracts between the Contractor and a Key Subcontractor shall expressly name the State of New York, through the Department, as the sole intended third party beneficiary of such subcontract. The Department reserves the right to review and approve or reject any subcontract with a Key Subcontractor, as well as any amendments to said subcontract(s), and this right shall not make the Department or the State of New York a party to any subcontract or create any right, claim, or interest in the Key Subcontractor or proposed Key Subcontractor against the Department.

The Department reserves the right, at any time during the term of the Agreement, to verify that the written subcontract between the Contractor and Key Subcontractor(s) is in compliance with all of the provision of this Article and any subcontract provisions contained in the Agreement. In addition to other remedies allowed by law, the Department reserves the right to terminate the Agreement for cause if an executed subcontract does not contain all of the provisions/statements stipulated above. If during the term of the Agreement, any executed subcontract between the Contractor and a Key Subcontractor is amended, the Contractor shall, within 30 calendar days of such amendment, provide a copy to the Department.

The Contractor shall give the Department immediate notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract with a Key Subcontractor or which may affect the performance of the Contractor's duties under the Agreement. Any subcontract shall not relieve the Contractor in any way of any responsibility, duty and/or obligation of the Agreement.

36. PUBLICITY AND COMMUNICATIONS

The Contractor shall ensure that all requests for the Contractor's participation in events where the Contractor will be participating on behalf of the Department receive prior written authorization from the Department.

No public discussion or news releases relating to the Agreement shall be made or authorized by the Contractor or the Contractor's agent without the prior written approval of the Department, which written approval shall not be unreasonably withheld or delayed provided, however, that Contractor shall be authorized to provide copies of the Agreement and answer any questions relating thereto to any State or federal regulators or, in connection with its financial activities, to financial institutions for any private or public offering.

37. CONSULTANT DISCLOSURE REQUIREMENTS

Unless directed otherwise by the Department, the Contractor shall demonstrate its compliance with Chapter 10 of the Laws of 2006 throughout the term of the Agreement by submitting to the Department and to the Office of the State Comptroller a "State Consultant Services - Contractor's Annual Employment Report" for each State Fiscal Year. Such report shall be due no later than May 15th of each year following the end of the State Fiscal Year being reported. Such report shall be required of any contract that includes services for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health and mental health services, accounting, auditing, paralegal, legal, or similar services. Such report shall conform with Bulletin No. G-226 – Form B as issued by the Office of the State Comptroller. The report must be submitted to the Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th floor, Albany, NY 12236, ATTN: Consultant Reporting; and to the Department's Contract Manager.

38. PROCUREMENT LOBBYING RESTRICTIONS UNDER STATE FINANCE LAW SECTIONS 139-j AND 139-k

The Contractor certifies that all information that it has provided or will provide to the Department pursuant to State Finance Law sections 139-j and 139-k is complete, true, and accurate, including but not limited to information regarding prior determinations of non-responsibility within the past four years based upon (i) impermissible contacts of other violations of SFL section 139-j, or (ii) the intentional provision of false or incomplete information to a governmental entity.

The Department reserves the right to terminate the Agreement in the event it is found that the Contractor's certification of its compliance with SFL sections 139-j or 139-k was intentionally false or intentionally incomplete. Upon such finding, the Department may exercise its right to terminate the Agreement by providing written notification to the Contractor in accordance with Article 9 of this Appendix B.

39. VENDOR RESPONSIBILITY

The Contractor is required to provide the Department with an updated Vendor Responsibility Questionnaire when requested to do so by the Department throughout the term of the Agreement. Regardless, the Contractor is required to report to the Department any material changes in the information reported in its initial Vendor Responsibility Questionnaire.

40. TAX LAW SECTION 5-A - CERTIFICATION REGARDING SALES AND COMPENSATING USE TAXES

In the event the value of the Agreement exceeds $100,000, the Contractor must file a properly completed Form ST-220-CA with the Department and a properly completed Form ST-220-TD with the Department of Taxation & Finance before the Agreement may take effect.

In addition, after the Agreement has taken effect, the Contractor must file a properly completed Form ST-220-CA with the Department if the Agreement's term is renewed; further, a new Form ST-220-TD must be filed with the Department of Taxation & Finance if no ST-220-TD has been filed by the Contractor or if a previously filed Form ST-220-TD is no longer correct and complete.

41. CONTRACT PAYMENT

Contractor shall provide complete and accurate billing invoices to the Department in order to receive payment. Billing invoices submitted to the Department must contain all information and supporting documentation required by the Agreement, the Department and the State Comptroller. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by e-mail at epunit@osc.state.ny.us, or by telephone at 518-474-4032. Contractor acknowledges that it will not receive payment on any invoices submitted under the Agreement if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

May 2011

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

THIS AGREEMENT (the "Agreement") by and between the NYS Department of Civil Service ("DCS"), with principal offices in Albany, NY 12239, and

with principal offices at

(hereinafter "Third Party"), is entered into as of the date last written below ("the Effective Date").

This Agreement consists of this signature page and the following attachments incorporated by reference:

1. Attachment 1: Third Party Connection and Data Exchange Agreement Terms and Conditions
2. Attachment 2: Third Party Connection and Data Exchange Request Requirements Document
3. Attachment 3: Third Party Acceptable Use Policy and Agreement
4. Attachment 4: DCS Equipment Loan Agreement (Applicable: ☐Yes ☐No)

This Agreement may only be modified by a written document executed by the parties hereto. Any disputes arising out of or in connection with this Agreement shall be governed by New York State law without regard to choice of law provisions.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed. Each party warrants and represents that its respective signatories whose signatures appear below have been and are on the date of signature duly authorized to execute this Agreement.

Third Party Name:	*NYS Department of Civil Service (DCS)*
Authorized Signature	Authorized Signature
Name *(Print)*	Name *(Print)*
Date	Date

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

ATTACHMENT 1 – SECURITY REQUIREMENTS

1. Right to Use Connection

Third Party may only use the connection and the information obtained from DCS for business purposes as outlined by the Third Party Connection and Data Exchange Request Requirements Document (Attachment 2*).*

2. Data Exchange

2.1 Third Party may only use the data obtained for purposes outlined by the Third Party Connection and Data Exchange Request Requirements Document (Attachment 2) and the contract or Memoranda of Understanding, if any, that exists between DCS and Third Party for the provision of goods or services or governing conduct between DCS and Third Party with respect to the access to and use of DCS data.

2.2 Data exchange may be conducted only by methods and/or services outlined by the Third Party Connection and Data Exchange Request Requirements Document (Attachment 2). Third Party should expect that access to information and services may be limited, as determined or required by DCS.

3. Network Security

3.1 Third Party will allow only its own employees approved in advance by DCS ("Third Party Users") to access the Network Connection or any DCS-owned equipment. Third Party shall be solely responsible for ensuring that Third Party Users are not security risks, and upon DCS' request, Third Party will provide DCS with any information reasonably necessary for DCS to evaluate security issues relating to any Third Party User.

3.2 Third Party will promptly notify DCS whenever any Third Party User leaves Third Party's employ or no longer requires access to the connection or DCS-owned Equipment.

3.3 Each Party will be solely responsible for the selection, implementation, and maintenance of security procedures and policies that are sufficient to ensure that (a) such party's use of the connection (and Third Party's use of DCS-owned Equipment) is secure and is used only for authorized purposes, and (b) such Party's business records and data are protected against improper access, use, loss alteration or destruction.

3.4 The preferred connectivity method is via the Internet to a DCS-approved or DCS-provided Virtual Private Network (VPN) device. If the device is DCS-provided, DCS will loan the Third Party, in accordance with the DCS Equipment Loan Agreement, the required client software for establishing VPN connections with DCS. Normal DCS perimeter security measures will control access to the internal network.

3.5 Extranet – Designated routers are used in combination with firewall rules to allow access to be managed. A second authentication may be required.

3.6 Remote Access - Using the DCS-provided remote access software, Third Party will connect via an Internet browser. The account may be disabled until usage is required and controls are placed and managed by DCS. Third Party will be required to follow procedures to enable the account for each use.

3.7 Third Party Connections will be audited. All remote access user accounts for Third Parties will be given an expiration time. Renewals must be requested by Third Party and approved by the Department Sponsor. Obsolete Third Party connections will be terminated.

3.8 Software versions on all Third Party computers that connect to the DCS network must be versions that are currently supported by the software manufacturer, and all available security updates and hot fixes for that software must be applied in a timely fashion. Software and firmware for all Third Party networking equipment that is part of the connection to the DCS network must be kept up to date, especially with patches that fix security vulnerabilities.

3.9 Anti-virus software and firewalls must be installed and enabled at all times on DCS-owned computers and on Third Party computers that connect to the DCS network. Additionally, virus definition files must be kept up to date.

3.10 In no case may a Third Party Connection to DCS be used as an Internet Connection for Third Party or for a Third Party User.

4. Notifications

4.1 Third Party shall notify DCS in writing promptly of any change in its Users for the work performed over the Network Connection or whenever Third Party believes a change in the connection and/or functional requirements of the connection is necessary.

4.2 Any notices required by this Agreement shall be given in hand, sent by first class mail, or via facsimile to the applicable address set forth below.

Third Party Name:	NYS Department of Civil Service Albany, New York 12239 Fax: (518) 473-3292
Address:	
Attention:	Attention: Linda Burk

5. Citizen Notifications

If Third Party maintains "identifying personal information" on behalf of the Department and such information is compromised, Third Party shall notify the Department immediately that the information has been compromised, the circumstances under which the information was compromised, and the measures undertaken by Third Party to address those circumstances and to otherwise mitigate the effects of the compromise. If encrypted data is compromised along with the corresponding encryption key and encryption software, the data shall be considered unencrypted and the information will be considered compromised through unauthorized access. If the Department requests Third Party to do so, Third Party shall notify the persons whose identifying information was compromised. Such notification shall be communicated via postal service or email, as directed by the Department, and shall otherwise be executed in accordance with the Department's direction. Notification shall be delayed if a law enforcement agency determines that such notification may impede a criminal investigation. For the purpose of this section, "identifying personal information" shall be any information concerning an individual which, because of name, number, symbol, mark or other identifier in combination with any of the following, is unencrypted: (1) Social Security Number; or (2) driver's license number; or (3) financial account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual's financial account; or (4) password which would permit access to the individual's account.

6. Payment of Costs

Each Party will be responsible for all costs incurred by that Party under this Agreement, including, without limitation, costs for phone charges, telecommunications equipment and personnel for maintaining the connection.

7. Confidentiality

7.1 Information exchanged for the business purposes outlined in Attachment 2 will be held confidential by the Parties to the maximum extent permitted by law. Each Party may internally use the information received from the other Party hereunder in connection with and as specifically necessary to accomplish the Business Purpose set forth in Attachment 2 and for no other purposes. Each Party may otherwise share such information with other third parties (e.g. consultants, subcontractors, control agencies) as required or permitted by law in order to effect the business purposes outlined in Attachment 2 and for no other purposes, provided that such third parties agree to the confidentiality restrictions set forth herein and as may be required otherwise by State and federal law.

7.2 Third Party must implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the sensitive information that it creates, receives, maintains, or transmits on behalf of DCS.

7.3 Unencrypted DCS information must not be transmitted over email.

7.4 Third Party must ensure that any agent, including a subcontractor, to whom it provides such information, agrees to implement reasonable and appropriate safeguards to protect it and report to the ITS Enterprise Service Desk any security incident of which it becomes aware.

8. Third Party Users

8.1 Third Party must require that each Third Party User executes a Third Party Acceptable Use Policy and Agreement (Attachment 3). Third Party must ensure that DCS is notified by fax or mail when the user base changes, following the specifications in the Third Party Connection & Data Exchange Agreement.

8.2 All aspects of Third Party connections within DCS control may be monitored by the appropriate DCS support group and/or the DCS Information Security Officer. Any unauthorized use or change to devices will be investigated immediately.

8.3 All Third Party Connections will be reviewed on a regular basis and information regarding specific Third Party connection will be updated as necessary. Obsolete Third Party connections will be terminated.

9. DCS-owned Equipment

9.1 DCS may, in DCS' sole discretion, loan to Third Party certain equipment and/or software for use on Third Party premises (the DCS-owned Equipment) under the terms of the DCS Equipment Loan Agreement set forth in Attachment 4. DCS-owned equipment will only be configured for TCP/IP, and will be used solely by Third Party on Third Party's premises or other locations authorized by DCS for the purposes set forth in this Agreement. DCS is responsible for ensuring that it has the right under applicable software licenses to permit third party use.

9.2 Third Party may modify the configuration of the DCS-owned equipment only after notification and approval in writing by authorized DCS personnel.

9.3 Third Party will not change or delete any passwords set on DCS-owned equipment without prior approval by authorized DCS personnel. Promptly upon any such change, Third Party shall provide DCS with such changed password.

10. Term, Termination and Survival

10.1 This Agreement will remain in effect until terminated by either Party, but in no event prior to the termination or expiration of any contract or agreement between the Parties for the purchase of goods or services that provides the business purpose for the exchange of data between the Parties, unless both Parties mutually agree to so terminate this Agreement.

10.2 Upon termination, Third Party shall return all tangible DCS data to DCS within a timeframe specified by DCS for that purpose, and further shall certify in writing to DCS that all other DCS data in whatever form has been destroyed. Additionally, any DCS-owned equipment and/or software shall be promptly returned to DCS at Third Party's expense.

10.3 Notwithstanding the above, the Parties' obligations to safeguard the confidentiality of the data subject to this Agreement shall survive the termination of this Agreement, and shall bind the Parties' employees, subcontractors, agents, heirs, successors and assigns.

11. Severability

If for any reason a court of competent jurisdiction finds any provision or portion of this Agreement to be unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible so as to affect the intent of the Parties, and the remainder of this Agreement will continue in full force and effect.

12. Waiver

The failure of any Party to enforce any of the provisions of this Agreement will not be construed to be a waiver of the right of such Party thereafter to enforce such provisions.

13. Assignment

Third Party may not assign this Agreement, in whole or in part, without the prior written consent from DCS. Any attempt to assign this Agreement, without such consent, will be null and of no effect. Subject to the foregoing, this Agreement is for the benefit of and will be binding upon the parties' respective successors and permitted assigns.

14. Force Majeure

Neither Party will be liable for any failure to perform its obligations if such failure results from any act of God or other cause beyond such Party's reasonable control (including, without limitation, any mechanical, electronic or communications failure) which prevents such party from transmitting or receiving any data.

15. Partial Invalidity

If this Agreement is entered into as a consequence of Third Party’s provision of goods or services to DCS pursuant to a contract or other written agreement, that Agreement supersedes this Agreement to the extent the agreements’ provisions may be inconsistent.

July 2005

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

ATTACHMENT 2 – REQUEST REQUIREMENTS

In accordance with the DCS *Third Party Connection and Data Exchange Policy*, all requests for Third Party connections and data exchanges must be accompanied by this completed requirements document. This document should be completed by the DCS person or group requesting the Third Party connection and/or data exchange. The DCS Department Sponsor must be the Director of the Division whose business requires the Third Party connection and/or data exchange. DCS Divisions are encouraged to work with their IRM Liaison to complete the information in this document.

Part 1 – Business Justification

A. DCS Sponsor *(Division Director)*

David Boland
Employee Benefits Division
NYS Department of Civil Service
Albany, New York 12239
David.Boland@cs.ny.gov
518-473-1977

Back-up Point of Contact: *(Data Custodian)*
Barbara Vaughn
Employee Benefits Division
NYS Department of Civil Service
Albany, New York 12239
Barbara.Vaughn@cs.ny.gov
518-549-2328

B. Business Reason for Connection *(To be completed by Sponsor)*

State the purpose of establishing the connection and the purpose of the data transmission. Specify the business needs of the proposed connection. Use additional sheets of paper if needed.

.

C. Specify the details of the work to be accomplished via the connection. What applications will be used? What information will be used? What transactions will be accomplished?

Enrollment files from NYBEAS will be transmitted to [*Insert HMO Name*] via an SFTP connection. Limited [*Insert HMO Name*] staff has inquiry access to NYBEAS to verify NYSHIP enrollment in [*Insert HMO Name*]. The enrollment information is used by [*Insert HMO Name*] to determine eligibility for benefits under the NYSHIP and to provide benefits to enrolled members

D. Specify the Third Party Controls to be Implemented for Safeguarding DCS Data:

Access Controls:

Audit Controls:

Working procedures or practices for handling printed material and verbal exchanges:

Method of Disposal of media and paper:

Secure receptacles are used to dispose of sensitive material.

Physical Security:

Other:

E. Estimated number of hours of use each week?

☐ 1 – 20 ☐ 21 – 40 ☐ More than 40 hours per week

F. Anticipated normal hours of use?

☐ M – F, 8:00 – 5:00 pm Eastern Time ☐ Other (specify):

G. What is the requested installation date? *(Minimum lead-time is 30 days)*

H. Approximately how long will the connection be needed?

☐ Up to 6 months ☐ 6 – 12 months ☐ More than 12 months

☐ Specific time period:

Note: If a connection is needed for more than a year, the Connection Agreement must be renewed annually.

I. Other useful information

J. Third Party Information

Name of Third Party:

Main Phone Number:

Main Office Address:

Management Contact

Name:

Address:

Email Address:

Phone Number:

Manager's Name:

Manager's Phone:

Backup Contact

Name:

Address:

Email Address:

Phone Number:

Manager's Name:

Manager's Phone:

Technical Contact

Name:

Department:

Address:

Email Address:

Phone Number:

Manager's Name:

Manager's Phone:

Technical Support Hours:

Escalation List:

Domain name(s):

Host name(s):

User Names and Contact Information. *(List all employees of the Third Party who will use this access.)*

User 1 *(name, phone, email):*

User 2 *(name, phone, email):*

User 3 *(name, phone, email):*

User 4 *(name, phone, email):*

User 5 *(name, phone, email):*

User 6 *(name, phone, email):*

User 7 *(name, phone, email):*

User 8 *(name, phone, email):*

User 9 *(name, phone, email):*

User 10 *(name, phone, email*):

K. Other information

July 2005

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

ATTACHMENT 3 – THIRD PARTY ACCEPTABLE USE POLICY AND AGREEMENT

This Policy and Agreement applies to all forms of computer and networking use, including local access at the Department of Civil Service (DCS) premises, remote access via public or private networks, access using DCS equipment, access using individual or group accounts, and access via other methods.

A signed paper copy of this form must be submitted by any individual (1) for whom authorization of a new user account is requested, (2) who will use a shared third party account, and/or (3) who is requesting reauthorization of an existing use. Modifications to the terms and conditions of this agreement will not be accepted by DCS management.

Indicate here if this is a notification that the User named below no longer requires access: ☐

<table>
<tr><td colspan="4">User's Name (print):</td></tr>
<tr><td colspan="4">Organization:</td></tr>
<tr><td>Telephone Number:</td><td>Area Code:</td><td>Number:</td><td>Extension:</td></tr>
<tr><td colspan="4">Office Address:</td></tr>
<tr><td colspan="4">The undersigned acknowledges that he or she has read, understands, and agrees to comply with this Third Party Acceptable Use Policy and Agreement governing the use of DCS computing resources.</td></tr>
<tr><td colspan="2">User Signature:</td><td colspan="2">Date:</td></tr>
</table>

You must sign this signature page and send it to DCS. Retain a copy of the signature page and the attached Policy for your records. This form must be delivered either by fax/ mail to: NYS Department of Civil Service, Albany, NY 12239, 518-485-5590, Attention: Carol Hanes.

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

ATTACHMENT 3 – THIRD PARTY ACCEPTABLE USE POLICY AND AGREEMENT

I. Protection of DCS Information

All records and information maintained in DCS systems accessed by the User are confidential and shall be used by the User solely for the purpose of carrying out the User's official duties. Users may not use any such records and information for any other purpose. No such records or information may otherwise be used or released to any person by the User or by the User's employer or agent, except as may be required by applicable State or federal law or by a court of competent jurisdiction. All accounts and connections will be regularly reviewed.

II. DCS Log-on Banner

All users will follow the guidelines of the DCS Log-on Banner as stated below.

NOTICE * The contents of this banner have been recommended to all State agencies by the Office for Technology in the NYS Preferred Standards and Procedures for Information Security. * This electronic system, which includes hardware, software and network components and all data contained therein (the "system"), is the property of the New York State Department of Civil Service (DCS). * Unauthorized use or attempted unauthorized use of this system is not permitted and may constitute a federal or state crime. Such use may subject you to appropriate disciplinary and/or criminal action. Use of this system is only permitted to the extent authorized by DCS. * Use is limited to conducting official business of DCS. Under the Electronic Communications Privacy Act of 1986 (18 U.S.C. 2510, et seq.), notice is hereby given that there are NO facilities provided by this system for sending or receiving private confidential electronic communication. Any use, whether authorized or not, may be monitored, intercepted, recorded, read, copied, accessed or captured in any manner, and used or disclosed in any manner, by authorized DCS personnel without additional prior notice to users. In this regard, users have no legitimate expectation of privacy during any use of this system or in any data on this system. * Use, whether authorized or unauthorized, constitutes expressed consent for DCS to monitor, intercept, record, read, copy, access or capture and use or disclose such information. * DCS policy regarding this matter can be reviewed on the DCS internal website. Copies can also be obtained from the Office of Human Resources Management. Such policies are subject to revision. This notice is consistent with the Acceptable Use Policy issued to DCS employees regarding acceptable use, June 15, 2005. I have read and understand this notification and department policy.

III. Passwords

The User is not permitted to share his/her password with anyone. Passwords must never be written down. The User must not use the same password for multiple applications. The User must use passwords that are not easily guessed and must not use their email address as their password.

IV. Shared Accounts

All use of shared accounts must be authorized by DCS. Users of shared accounts must be identified to DCS via the completion and signing of this policy/agreement. Third Parties are responsible for notification to DCS when the user base changes. Passwords for shared accounts must not be provided to individuals who have not been identified by Third Party to DCS and who have not completed and signed this policy/agreement.

V. Virus Protection

Anti-virus software must be installed and enabled at all times on DCS-owned computers and on third party computers used to conduct DCS business. Virus definition files must be kept up to date. DCS Information Resource Management (IRM) provides anti-virus software and maintains the configuration of that software for all DCS-owned computers.

VI. Acceptable Use

DCS computers, computing systems and their associated communication systems are provided to support the official business of DCS. All uses inconsistent with DCS' business activities and administrative objectives are considered to be inappropriate use.

Examples of unacceptable behavior include, but are not limited to the following.

- Any illegal activities that could result in legal actions against and/or financial damage to DCS.
- Computer usage that reasonably harasses or offends other employees, users, or outsiders, or results in public embarrassment to DCS.
- Computer usage that is not specifically approved and which consumes significant amounts of computer resources not commensurate with its benefit to DCS' mission or which interferes with the performance of a worker's assigned job responsibilities.
- Use in connection with compensated outside work or unauthorized not-for-profit business activities.
- Use of sniffers, spyware, ad-ware or other related technology.

VII. Software Protection

The User is responsible for complying with copyright, licensing, trademark protection, and fair use restrictions.

VIII. Reporting Incidents

Users are required to report incidents of system errors, data discrepancies, application performance problems, to the DCS Help Desk, at 518-457-5406 phone; 518-485-5588 fax.

IX. DCS Rights

Pursuant to the Electronic Communications Privacy Act of 1986 (18 USC 2510 et seq.), notice is hereby given that there are no facilities provided by this system for sending or receiving private or confidential electronic communications. DCS has access to all access attempts, messages created and received, and information created or stored using DCS resources, and will monitor use as necessary to assure efficient performance and appropriate use. Information relating to or in support of illegal activities will be reported to the appropriate authorities.

DCS reserves the right to log and monitor use. DCS reserves the right to remove a user account from the network. DCS assumes no responsibility or liability for files or information deleted.

The DCS will not be responsible for any damages. This includes the loss of data resulting from delays, non-deliveries, or service interruptions caused by negligence, errors or omissions, or caused by the way the user chooses to use DCS computing facilities.

DCS reserves the right to change its policies and rules at any time.

X. Penalties

The User shall hold the State and DCS harmless from any loss or damage to the State and/or DCS resulting from the User's inappropriate disclosure of information covered by this User Agreement. Further, the User's non-compliance with this Agreement may result in the revocation of system privileges, termination of employment or contract with DCS, and/or criminal and/or civil penalties.

July 2005

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

ATTACHMENT 4 – EQUIPMENT LOAN AGREEMENT

<table>
<tr><td rowspan="3">Name And Address Of Borrower</td><td colspan="2">DCS Business Unit (Loaning Organization)</td></tr>
<tr><td colspan="2">Point Of Contact</td></tr>
<tr><td>Work Location</td><td>Telephone</td></tr>
<tr><td rowspan="3">Shipping Address (If different from borrower's)</td><td colspan="2">Manager's Name</td></tr>
<tr><td colspan="2">Date To Be Loaned</td></tr>
<tr><td colspan="2">Date To Be Returned</td></tr>
<tr><td colspan="3">Equipment To Be Loaned</td></tr>
<tr><td>Quantity</td><td>Description</td><td>Value</td></tr>
<tr><td></td><td></td><td></td></tr>
<tr><td></td><td></td><td></td></tr>
<tr><td></td><td></td><td></td></tr>
<tr><td></td><td></td><td></td></tr>
<tr><td></td><td></td><td></td></tr>
<tr><td colspan="3">Purpose Of Loan</td></tr>
<tr><td colspan="3">CONDITIONS OF LOAN</td></tr>
<tr><td colspan="3">1. The Borrower of the above equipment agrees to return same in like condition as received from DCS, normal wear and tear excepted, on or before the above return date, unless the loan period is formally extended.
2. Upon termination of this Agreement, Borrower shall uninstall all DCS software included in this Agreement from Borrower's computer and/or network equipment.
3. The Borrower shall not make any copies of DCS software included in this Agreement.
4. In case of loss or damage beyond repair, DCS shall be reimbursed by Borrower at the current price of replacement.
5. The equipment shall not be loaned or transferred to a third party without the written consent of DCS.
6. The right is reserved to cancel the loan or recall the equipment upon _____ days' notice.
7. The Borrower shall assume all shipping and/or transportation costs involved.
8. Other conditions:</td></tr>
</table>

Agreed (Borrower)	**Approved** (DCS)
Borrowing Organization	Loaning Organization
Signature Of Authorized Official	Signature Of Authorized Official
Title	Title
Date	Date
RECEIPT OF EQUPMENT	
Borrower *(Upon initial receipt)*	**DCS Lender** *(Upon termination of Agreement)*
Borrowing Organization	Loaning Organization
Signature Of Authorized Official	Signature Of Authorized Official
Title	Title
Date	Date

July 2005

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES

I. General Provisions

A. The Department of Civil Service is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of $25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of $100,000 for real property renovations and construction.

B. The contractor to the subject contract (the "Contractor" and the "Contract," respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State Department of Civil Service (the "Department"), to fully comply and cooperate with the Department in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for certified minority and women-owned business enterprises ("MWBEs"). The Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, state or local laws.

C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Appendix or enforcement proceedings as allowed by the Contract.

II. Contract Goals

A. For purposes of this procurement, the Department hereby establishes an overall goal of 30% for Minority and Women-Owned Business Enterprises ("MWBE") participation, 15% for New York State certified minority-owned business enterprises ("MBE") participation and 15% for New York State certified women-owned business enterprises ("WBE") participation (collectively, "MWBE Contract Goals") based on the current availability of qualified MBEs and WBEs.

B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section II-A hereof, the Contractor should reference the directory of New York State Certified MBWEs found at the following internet address: https://ny.newnycontracts.com.

Additionally, the Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

C. Where MWBE Contract Goals have been established herein, pursuant to 5 NYCRR §142.8, the Contractor must document "good faith efforts" to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the Department for liquidated or other appropriate damages, as set forth herein.

III. Equal Employment Opportunity (EEO)

A. The Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the "Division"). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.

B. The Contractor shall comply with the following provisions of Article 15-A:

1. Contractor and subcontractor performing work on the Contract ("Subcontractor") shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

2. The Contractor shall submit an EEO policy statement to the Department within seventy two (72) hours after the date of the notice by the Department to award the Contract to the Contractor.

3. If the Contractor or Subcontractor does not have an existing EEO policy statement, the Department may provide the Contractor or Subcontractor a model statement (see Appendix D-1 – Minority and Women-Owned Business Enterprises Equal Employment Opportunity Policy Statement).

4. The Contractor's EEO policy statement shall include the following language:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.

b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

c. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph “E” of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each Subcontractor as to work in connection with the Contract.

C. Form EEO-100 - Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. The Contractor shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

D. Form MWBE-100 - Workforce Employment Utilization Report (“Workforce Report”)

1. Once a contract has been awarded and during the term of Contract, the Contractor is responsible for updating and providing notice to the Department of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories

listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.

2. Separate forms shall be completed by Contractor and any Subcontractor.

3. In limited instances, the Contractor may not be able to separate out the workforce utilized in the performance of the Contract from the Contractor's and/or Subcontractor's total workforce. When a separation can be made, the Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from the Contractor's and/or Subcontractor's total workforce, the Contractor shall submit the Workforce Report and indicate that the information provided is the Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

E. The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and Subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV MWBE Utilization Plan

A. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan, by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at https://ny.newnycontracts.com, provided, however, that the Contractor may arrange to provide such evidence via a non-electronic method to the Department, either prior to, or at the time of, the execution of the contract.

B. The Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.

C. The Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, the Department shall be entitled to any remedy provided herein, including but not limited to, a finding of the Contractor non-responsiveness.

V. Waivers

A. For Waiver Requests, the Contractor should use the NYSCS, provided, however, that Bidder may arrange to provide such evidence via a non-electronic method to the Department.

B. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the Department shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

C. If the Department, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that the Contractor is failing or refusing to comply with the MWBE Contract Goals and no waiver has been issued in regards to such non-compliance, the Department may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI Quarterly MWBE Contractor Compliance Report

The Contractor is required to submit a Quarterly MWBE Contractor Compliance Report through the NYSCS, provided, however, that Bidder may arrange to provide such evidence via a non-electronic method to the Department by the 10th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

VII Liquidated Damages - MWBE Participation

A. Where the Department determines that the Contractor is not in compliance with the requirements of the Contract and the Contractor refuses to comply with such requirements, or if the Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to the Department liquidated damages.

B. Such liquidated damages shall be calculated as an amount equaling the difference between:

1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and

2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the Department, the Contractor shall pay such liquidated damages to the Department within sixty (60) days after they are assessed by the Department unless prior to the

expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the Department.

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

M/WBE AND EEO POLICY STATEMENT

I, _____, the (awardee/contractor) _____ agree to adopt the following policies with respect to the project being developed or services rendered at the New York State Department of Civil Service.

M/WBE

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

(1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
(2) Request a list of State-certified M/WBEs from the Department and solicit bids from them directly.
(3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
(4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
(5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
(6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

EEO

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

(b)This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

(d) The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract

Agreed to this _____ day of _____, 2015

By _____

Print: _____ Title: _____

_____is designated as the Minority Business Enterprise Liaison
(Name of Designated Liaison)
responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment Opportunity (M/WBE-EEO) program.

M/WBE Contract Goals

% Minority and Women's Business Enterprise Participation

% Minority Business Enterprise Participation

% Women's Business Enterprise Participation

EEO Contract Goals

% Minority Labor Force Participation

% Female Labor Force Participation

_____
(Authorized Representative)

Title: _____

Date: _____

NEW YORK STATE OF OPPORTUNITY | Division of Minority and Women's Business Development

Your MWBE Utilization and Reporting Responsibilities Under Article 15-A

The New York State Contract System ("NYSCS") is your one stop tool compliance with New York State's MWBE Program. It is also the platform New York State uses to monitor state contracts and MWBE participation.

GETTING STARTED

To access the system, you will need to login or create a user name and password at https://ny.newnycontracts.com. If you are uncertain whether you already have an account set up or still need to register, please send an email to the customer service contact listed on the Contact Us & Support page, or reach out to your contract's project manager. For verification, in the email, include your business name and contact information.

VENDOR RESPONSIBILITIES

As a vendor conducting business with New York State, you have a responsibility to utilize minority- and/or women-owned businesses in the execution of your contracts, per the MWBE percentage goals stated in your solicitation, incentive proposal or contract documents. NYSCS is the tool that New York State uses to monitor MWBE participation in state contracting. Through the NYSCS you will submit utilization plans, request subcontractors, record payments to subcontractors, and communicate with your project manager throughout the life of your awarded contracts.

There are several reference materials available to assist you in this process, but to access them, you need to first be registered within the NYSCS. Once you log onto the website, click on the **Help & Support >>** link on the lower left hand corner of the Menu Bar to find recorded trainings and manuals on all features of the NYSCS. You may also click on the 

icon at the top right of your screen to find videos tailored to primes and subcontractors. There are also opportunities available to join live trainings, read up on the "Knowledge Base" through the Forum link, and submit feedback to help improve future enhancements to the system. Technical assistance is always available through the **Contact Us & Support** link on the NYSCS website (https://ny.newnycontracts.com).

For more information, contact your project manager.

Exhibit I.A - Submission Requirement Checklist

Please indicate by checkmark that your Submission meets **each** of the following requirements:

____**1.** **TIMELY SUBMISSION:** Submission provided to all JLMC Members (Exhibit II.C.) no later than 3:00 p.m. ET on the Proposal Due Date as indicated in Section II.A.1.

____**2.** **FORMATTING REQUIREMENTS:** The HMO's Submission must be organized and comply with the formatting requirements stated in Section II.A.7.

____a. One (1) Original hard copy, one (1) additional hard copy and a separate CD labeled with the specific title.

____b. Submissions must be prepared in Adobe Acrobat.

____c. The Submission must be bound together and clearly labeled with "2016 HMO Submission and the HMO's name(s).

____d. Table of Contents

____e. Index Tabs

____f. Pagination

____g. Updates/Corrections

____**3.** **REQUIRED ADMINISTRATIVE FORMS OF THE SUBMISSION:** The Submission must contain the following information, in the order enumerated below:

___A. **Formal Offer Letter**: The HMO must submit a formal offer in the form of the "Formal Offer Letter" as set forth in, Exhibit I.S in accordance with the requirements set forth in, Section III.A

___B. **HMO Attestation Form:** The HMO must submit a completed Exhibit I.T "HMO Attestations Form" containing the representations and warranties set forth therein

___C. **Exhibits**: The HMO must complete and submit the Exhibits specified in Section III.C as follows:

____	Exhibit I.A	Submission Requirement Checklist
____	Exhibit I.D	MacBride Statement and Non-Collusive Bidding Certification
____	Exhibit I.G	EEO Staffing Plan (form EEO-100)
____	Exhibit I.K	Offeror's Affirmation of Understanding & Agreement
____	Exhibit I.M	Compliance with Public Officers Law Requirements
____	Exhibit I.N	Compliance with Americans with Disabilities Act
____	Exhibit I.O	MWBE Utilization Plan (form MWBE-100)
____	Exhibit I.P	Offeror's Certification of Compliance Pursuant to State Finance Law §139-k
____	Exhibit I.Q	M/WBE and EEO Policy Statement
____	Exhibit I.U.2	New York Subcontractors and Suppliers
____	Exhibit I.W	Compliance with NYS Workers' Compensation Law

___D. **Key Subcontractors or Affiliates**: The HMO must provide a statement identifying all Key Subcontractors or Affiliates, if any, that the HMO will be contracting with to provide program services and must, for each such Key Subcontractor or Affiliate identified, complete and submit **Exhibit I.U.1 "Key Subcontractors or Affiliates"**:

1. provide a brief description of the services to be provided by the Key Subcontractor; and
2. provide a description of any current relationships with such Key Subcontractor or Affiliate and the clients/projects that the HMO and Key Subcontractor or Affiliate are currently servicing under a formal legal agreement or arrangement, the date when such services began and the status of the project.

The HMO must indicate whether or not, as of the date of the HMO's Submission, a subcontract has been executed between the HMO and the Key Subcontractor or Affiliate for services to be provided by the Key Subcontractor or Affiliate relating to the Specifications. If the HMO will not be subcontracting with any Key Subcontractor(s) or Affiliate(s) to provide program services, the HMO must provide a statement to that effect.

___E. **Financial Statements**: the HMO must provide a copy of the HMO's last issued GAAP annual audited financial statement. A complete set of statements, not just excerpts, must be provided. Additionally, for each Key Subcontractor or Affiliate, if any, that provides any of the HMO Program services; which are the subject matter of these Specifications, provide the most recent GAAP annual audited statement. If the HMO, or a Key Subcontractor or Affiliate, is a privately held business and is unwilling to provide copies of their GAAP annual audited financial statements as part of their Proposal, the HMO/Key Subcontractor/Affiliate must make arrangements for the procurement evaluation team to review the financial statements.

Note: If financial statements have not been prepared and/or audited, the HMO/Key Subcontractor/Affiliate must provide the following as part of its Proposal: a letter from a bank reference attesting to the HMO/Key Subcontractor/Affiliate's financial viability and creditworthiness. (Note: For purposes of this reference, the HMO may not give as a reference, a parent or subsidiary company, a partner or an Affiliate organization.) The letter must include the bank's name, address, contact person name and telephone number and it must address, at a minimum, the following items:

1. a brief description of the business relationship between the parties (i.e., the HMO/Key Subcontractor/Affiliate and the bank), including the duration of the relationship and the HMO's current standing with the bank. For example: "*The (HMO/Key Subcontractor/ Affiliate's name) is currently and has been for "x" number of years a client in good standing";*
2. a description of any ownership/partner relationship that may exist between the parties, if any. (**Note:** One party cannot be the parent, partner or subsidiary of the other, nor can one party be an affiliate of the other); and,
3. any other facts or conclusions the bank may deem relevant to the State in regard to the bank's assessment of the HMO/Key Subcontractor/Affiliate's financial viability and creditworthiness concerning the nature and scope of the Program Services and the Parties (i.e., Department, and the HMO or the HMO and Key Subcontractor or Affiliate) contractual obligations should the HMO be awarded the resultant contract.

HMOs must submit their most recent National Association of Insurance Commissioners (NAIC) Risk Based Capital Ratio including the current capital and desired capital used to calculate this ratio. Additionally, HMOs must submit their Standard & Poors Financial Strength rating or, if not rated by Standard & Poors, any other financial rating such as Moody's, AM Best's Insurance Financial Strength, Fitch Group or Weiss Ratings.

___F. **Vendor Responsibility Questionnaire:** To assist the Department in evaluating the responsibility of HMOs, a completed **"New York State Standard Vendor Responsibility Questionnaire"** must be submitted in the HMO's Submission. A person legally authorized to represent the HMO must execute the questionnaire. To the extent that the Contractor is proposing the use of Key Subcontractors or Affiliates (i.e., part of the HMO's proposed Account Team) and expected to receive more than $100,000 in payments during the term of the Agreement, the HMO must submit a completed "New York State Standard Vendor Responsibility Questionnaire" for each Key Subcontractor or Affiliate completed by a person legally authorized to represent the Key Subcontractor or Affiliate.

____**4. REQUIRED SUBMISSION DOCUMENTS:** The HMO must submit the following required documents are HMOs Submission, as specified in Section V, in the order enumerated below:

___1. Certificate to Operate

___2. NYSHIP Medicare Advantage Plan Offering: Indicate if the HMO Plan to off a Medicare Advantage Plan

___3. List of Counties: Include a list of Counties in the HMO's proposed 2016 NYSHIP Service Area

___4. Schedule M: Include the most recent annual filing

___5. NYSHIP Dependent Eligibility Rider: Include a copy of the NYSHIP Dependent Eligibility Rider that will be filed with DFS

___6. Coverage and Benefit Documents:

- ___a. Certificate of Coverage
- ___b. Evidence of Coverage
- ___c. Benefit Charts (Exhibit III.B-1 and III.B-2)
- ___d. Choices Page for both Commercial and Medicare Advantage Plan, as applicable
- ___e. Schedule of Benefits for both Commercial and Medicare Advantage Plan, as applicable
- ___f. Side by Side Comparison, as applicable
- ___g Listing of Certificate/Group Contract, Riders and/or Amendments
- ___h Summary of Benefits and Coverage (SBC)
- ___i. Additional Marketing Materials

___7. Responses to all questions

___**5. REQUESTED REDACTIONS CD and HARD COPY:** The FOIL-related materials described herein which the HMO is requested to provide per Section II.B.8 of the Specifications will not be considered part of the HMO's Submission and will not be reviewed as a part of the Procurement's evaluation process. Notwithstanding this they have been identified in this Checklist as a reminder to HMOs of the need to provide the requested items.

At the time of Submission the HMO is requested to submit:

___A. Exhibit I.C Freedom of Information Law – Request for Redaction Chart

___B. Separately bound hardcopy of the Submission with each specific item requested to be protected from FOIL disclosure by highlighting in yellow.

___C. Electronic copy (on CD in Adobe Acrobat Professional software, version 8 or higher) of the complete Submission noting each the specific item requested to be protected from FOIL.

This Exhibit has been intentionally left blank

(Name of HMO) (Submission Date)

☐ HMO asserts that the information noted in the table below constitutes proprietary and/or trade secret information and desires that such information not be disclosed if requested pursuant to the New York State Freedom of Information Law, Article 6 of the Public Officers Law.

☐ HMO makes NO assertion that any information in its Agreement with the NYS Department of Civil Service, in whole or in part, should be protected from FOIL disclosure.

Requested Redaction Page #s and Sections	Description	HMO Rationale for Proposed Redaction
Insert rows above as necessary		

REDACTION CHART

Please provide specific justification for each item for which you seek protection from FOIL disclosure. An appropriate justification may any one or more of the following considerations by which to demonstrate reasonably whether the item for which you seek protection may be excepted from disclosure:

a) the confidential nature of the specific item, including a description of the nature and extent of the injury to the HMO's competitive position, such as unfair economic or competitive damage, which would be incurred were the information/record to be disclosed;

b) whether the specific information/record is treated as confidential by the HMOr, including whether it ever has been made available to any person or entity;

c) whether any patent, copyright, or similar legal protection exists for the specific item of information;

d) whether the public disclosure of the information/record is otherwise restricted by law, and the specific source and content of such restriction;

e) the date upon which the information/record no longer will need to be kept confidential, if applicable;

f) whether the item of information is known by anyone outside the HMO's business or organization;

g) the extent to which the information is known by HMO's employees and others involved in the HMO's business;

h) the value of the specific information/record to the HMO and to its competitors;

i) the amount of effort or money expended by the HMO in developing the information/record; and

j) the ease or difficulty with which the information could be properly acquired or duplicated (not merely copied) for use by others.

NON-DISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND
MACBRIDE FAIR EMPLOYMENT PRINCIPLES

In accordance with Chapter 807 of the Laws of 1992 the Offeror, by submission of this bid, certifies that it or any individual or legal entity in which the Offeror holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership interest in the Offeror, either (answer "yes" or "no" to one or both of the following, as applicable):
Have business operations in Northern Ireland. Yes _____ or No _____
If yes:
Shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such Principles. Yes _____ or No _____

NON-COLLUSIVE BIDDING CERTIFICATION

By submission of this bid, each Offeror and each person signing on behalf of any Offeror certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

1. The prices in this bid have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other Offeror or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Offeror and will not knowingly be disclosed by the Offeror prior to opening, directly or indirectly, to any other Offeror or to any competitor; and
3. No attempt has been made or will be made by the Offeror to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

Date:_____ _____

Signature

PRINT:
SIGNATORY'S NAME _____ **TITLE** _____

INDIVIDUAL, CORPORATE OR PARTNERSHIP ACKNOWLEDGMENT

STATE OF }
: **SS.:**
COUNTY OF }

On the ____ day of _____in the year 2015, before me personally appeared:

_____, known to me to be the person who executed the foregoing

instrument, who, being duly sworn by me did depose and say that _he resides at _____, Town of

_____, County of _____ , State of _____ ; and further that, if applicable:

[Check One, If Applicable]
(___ If a corporation): _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(___If a partnership): _he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.

_____
Notary Public

New York State Department of Taxation and Finance

Contractor Certification to Covered Agency

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-CA (6/06)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need Help? on back).*

Contractor name	*For covered agency use only* *Contract number or description*
Contractor's principal place of business — City — State — ZIP code	
Contractor's mailing address *(if different than above)*	*Estimated contract value over the full term of contract (but not including renewals)* $
Contractor's federal employer identification number (EIN) — Contractor's sales tax ID number (If different from contractor's EIN)	
Contractor's telephone number — Covered agency name	
Covered agency address	*Covered agency telephone number*

I, _____ *(name)*, hereby affirm, under penalty of perjury, that I am _____ *(title)* of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:

(Mark an X in only one box)

☐ The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.

☐ The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____ *(insert contract number or description)* and, to the best of the contractor's knowledge, the information provided on that previously filed Form ST-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this____ day of _____, 20____

_____ *(sign before a notary public)*

_____ *(title)*

Instructions

General information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency,* with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. This publication is available on our Web site, by fax, or by mail. (See *Need help?* for more information on how to obtain this publication.) In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

If you have questions, please call our information center at 1 800 698-2931.

Note: Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

i. The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);

ii. The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and

iii. The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of $100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned *on or after April 26, 2006* (the effective date of the section 5-a amendments).

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

On the ___ day of _____ in the year 20___, before me personally appeared _____,

known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that

_he resides at _____,

Town of _____,

County of _____,

State of _____; and further that:

[Mark an ***X*** in the appropriate box and complete the accompanying statement.]

☐ (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.

☐ (If a corporation): _he is the _____

of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

☐ (If a partnership): _he is a _____

of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

☐ (If a limited liability company): _he is a duly authorized member of _____, LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

_____
Notary Public

Registration No. _____

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need help?

Internet access: *www.nystax.gov* (for information, forms, and publications)

Fax-on-demand forms: 1 800 748-3676

Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday. 1 800 698-2931

To order forms and publications: 1 800 462-8100

From areas outside the U.S. and outside Canada: (518) 485-6800

Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

Exhibit I.F - ST-220-TD

New York State Department of Taxation and Finance

Contractor Certification

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-TD
(5/07)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a (see Need help? below).*

Contractor name			
Contractor's principal place of business	City	State	ZIP code
Contractor's mailing address *(if different than above)*			

Contractor's federal employer identification number (EIN)	Contractor's sales tax ID number (if different from contractor's EIN)	Contractor's telephone number ( )
Covered agency or state agency	Contract number or description	Estimated contract value over the full term of contract (but not including renewals) $
Covered agency address		Covered agency telephone number

General information

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than $100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file a Form ST-220-CA, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

All sections must be completed including all fields on the top of this page, all sections on page 2, Schedule A on page 3, if applicable, and Individual, Corporation, Partnership, or LLC Acknowledgement on page 4. If you do not complete these areas, the form will be returned to you for completion.

For more detailed information regarding this form and section 5-a of the Tax Law, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006),* available at *www.nystax.gov.* Information is also available by calling the Tax Department's Contractor Information Center at 1 800 698-2931.

Note: Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

NYS TAX DEPARTMENT
DATA ENTRY SECTION
W A HARRIMAN CAMPUS
ALBANY NY 12227

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227.

Need help?

Internet access: *www.nystax.gov* (for information, forms, and publications)

Fax-on-demand forms: 1 800 748-3676

Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

To order forms and publications: 1 800 462-8100

Sales Tax Information Center: 1 800 698-2909

From areas outside the U.S. and outside Canada: (518) 485-6800

Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

I, _____ , hereby affirm, under penalty of perjury, that I am _____
(name) *(title)*

of the above-named contractor, and that I am authorized to make this certification on behalf of such contractor.

Complete Sections 1, 2, and 3 below. Make **only one** entry in each section.

Section 1 — Contractor registration status

☐ The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law, and is listed on Schedule A of this certification.

☐ The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 2 — Affiliate registration status

☐ The contractor does not have any affiliates.

☐ To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the $300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each affiliate exceeding the $300,000 cumulative sales threshold during such quarters on Schedule A of this certification.

☐ To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 3 — Subcontractor registration status

☐ The contractor does not have any subcontractors.

☐ To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the $300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor exceeding the $300,000 cumulative sales threshold during such quarters on Schedule A of this certification.

☐ To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this___ day of _____ , 20 ____

_____ _____
(sign before a notary public) *(title)*

Schedule A — Listing of each entity (contractor, affiliate, or subcontractor) exceeding $300,000 cumulative sales threshold

List the contractor, or affiliate, or subcontractor in Schedule A only if such entity exceeded the $300,000 cumulative sales threshold during the specified sales tax quarters. See directions below. For more information, see Publication 223.

A Relationship to Contractor	B Name	C Address	D Federal ID Number	E Sales Tax ID Number	F Registration in progress

Column A – Enter ***C*** in column A if the contractor; ***A*** if an affiliate of the contractor; or ***S*** if a subcontractor.

Column B – Name - If the entity is a corporation or limited liability company, enter the exact legal name as registered with the NY Department of State, if applicable. If the entity is a partnership or sole proprietor, enter the name of the partnership and each partner's given name, or the given name(s) of the owner(s), as applicable. If the entity has a different DBA (doing business as) name, enter that name as well.

Column C – Address - Enter the street address of the entity's principal place of business. Do not enter a PO box.

Column D – ID number - Enter the federal employer identification number (EIN) assigned to the entity. If the entity is an individual, enter the social security number of that person.

Column E – Sales tax ID number - Enter only if different from federal EIN in column D.

Column F – If applicable, enter an X if the entity has submitted Form DTF-17 to the Tax Department but has not received its certificate of authority as of the date of this certification.

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

On the ____ day of _____ in the year 20__ , before me personally appeared _____ ,

known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that

_ he resides at _____ ,

Town of _____ ,

County of _____ ,

State of _____; and further that:

[Mark an ***X*** in the appropriate box and complete the accompanying statement.]

☐ (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.

☐ (If a corporation): _he is the _____

of _____ , the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

☐ (If a partnership): _he is a _____

of _____ , the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

☐ (If a limited liability company): _he is a duly authorized member of _____ LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

_____
Notary Public

Registration No. _____

State of New York
Department of Civil Service
Albany, NY 12239

EQUAL EMPLOYMENT OPPORTUNITY STAFFING PLAN

OFFICE OF FINANCIAL ADMINISTRATION **EEO-100 (9/2011)**

Solicitation No.:	Reporting Entity: ☐ Contractor ☐ Subcontractor	Report includes: ☐ Contractor's work force to be utilized on this contract ☐ Contractor's total work force ☐ Subcontractor's work force to be utilized on this contract ☐ Subcontractor's total work force
Contractor/Subcontractor's Name:		
Contractor/Subcontractor's Address: FEIN:		

Enter the total number of employees in each classification in each of the EEO-Job Categories identified.

EEO Job Categories	Total Work Force	Work force by Gender		Work force by Race/Ethnic Identification													
		Total Male (M)	Total Female (F)	White (M)	White (F)	Black (M)	Black (F)	Hispanic (M)	Hispanic (F)	Asian (M)	Asian (F)	American Indian or Alaskan Native (M)	American Indian or Alaskan Native (F)	Disabled Individual (M)	Disabled Individual (F)	Veteran (M)	Veteran (F)
Executive/Senior level Officials & Managers																	
First/Mid level officials & Managers																	
Professionals																	
Technicians																	
Sales Workers																	
Administrative Support Workers																	
Craft Workers																	
Operatives																	
Laborers and Helpers																	
Service Workers																	
Totals																	

PREPARED BY (Signature):	**TELEPHONE NO.:** **EMAIL ADDRESS:**	**DATE:**
NAME AND TITLE OF PREPARER (Print or Type):		

State of New York
Department of Civil Service
Albany, NY 12239

EQUAL EMPLOYMENT OPPORTUNITY STAFFING PLAN

OFFICE OF FINANCIAL ADMINISTRATION **EEO-100 (9/2011)**

General Instructions: All Offerors must complete an EEO Staffing Plan (EEO 100) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's total work force, the Offeror shall complete this form for the contractor's total work force. Subcontractors awarded a subcontract over $25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor must complete this form upon request of the Department.

Instructions for completing:

1. Enter the Solicitation Number that this report applies to along with the name and address of the Offeror (contractor).
2. Check off the appropriate box to indicate if the report is the contractor or a subcontractor.
3. Check off the appropriate box to indicate if the contractor's/subcontractor's work force being reported is just for the contract or the total work force.
4. Enter the total work force by EEO job category.
5. Break down the total work force by gender and enter under the heading "Work force by Gender."
6. Break down the total work force by race/ethnic background and enter under the heading "Work force by Race/Ethnic Identification."
7. Enter information on any disabled or veteran employees included in the work force under the appropriate heading.
8. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

WHITE: (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

BLACK: A person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.

HISPANIC: A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

ASIAN & PACIFIC ISLANDER: A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

AMERICAN INDIAN OR ALASKAN NATIVE (Not of Hispanic Origin): A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

DISABLED INDIVIDUAL - any person who:

- has a physical or mental impairment that substantially limits one or more major life activity
- has a record of such an impairment; or
- is regarded as having such an impairment.

VIETNAM ERA VETERAN: A veteran who served at any time between and including January 1, 1963 and May 7, 1975.

NYS State Finance Law §163(9)(c), as amended by Section 3 of Chapter 137 of the Laws of 2008, requires that:

> *"A state agency shall, upon request, provide a debriefing to any unsuccessful offerer[1] that responded to the Specifications, a request for proposal or an invitation for bids, regarding the reasons that the proposal or bid submitted by the unsuccessful offerer was not selected for an award. The opportunity for an unsuccessful offerer to seek a debriefing shall be stated in the solicitation, which shall provide a reasonable time for requesting a debriefing."*

The Procurement Council Guidelines define "Debriefing" as:

> *The practice whereby, upon the request of a bidder, the state agency advises such bidder of the reasons why its bid was not selected for an award. It is viewed as a learning process for the bidder to be better prepared to participate in future procurements.*

In accordance with the law, the Department shall make a Debriefing available to any entity that submitted a proposal or bid in response to a given solicitation ("Offeror"), including the selected Offeror after notice award is made by the Department. All Offerors shall be given written notice of award, via email with hardcopy to follow.

Timeframes associated with requesting/conducting Debriefings:
Debriefing must be requested by Offerors in writing to the designated individual or email address as set forth in the notice of award.

- Pre-Award Debriefings:
  Any Offeror, upon request, will be afforded an opportunity for a pre-award Debriefing at least five business days prior to the date by which any protest must be filed. An Offeror's failure to timely request a pre-award Debriefing shall not cause an extension of the time period within which a protest must be filed. In those cases where the Offeror fails to make a timely request for a pre-award Debriefing, the Department will schedule the Debriefing as soon after the time the request is made as it deems practicable.

- Post-Award Debriefings:
  In the case of requests made by an Offeror(s) for a post-award Debriefing, the request must be received by the Department not more than twenty calendar days after final approval of the contract is received or the date the award is posted on OSC' website at the address set forth below and the Department will schedule the Debriefing as soon after the time the request is made as it deems practicable.

  http://wwe1.osc.state.ny.us/transparency/contracts/contractsearch.cfm

[1] For purposes of this policy, the terms Offeror, Offerer and Bidder are understood to have same meaning.

How Debriefings shall be conducted by the Department:

A Debriefing may be requested by any unsuccessful Offeror after a contract award is made regarding the reasons that the proposal or bid submitted by the unsuccessful Offeror was not selected for award. While a Debriefing is typically conducted in person, it may be conducted by video conference, over the phone, or through written summaries, if agreed to by the Offeror.

Since Debriefings are intended to make the procurement process open and transparent and to help the vendor community become more viable competitors for New York State goods and services, when conducting a Debriefing, the Department will, at a minimum, discuss the strengths and weaknesses of the Offeror's proposal and provide information as to the relative rating of the Offeror's proposal in each of the major evaluation categories as provided for in the solicitation document. Typically such a debriefing will include information as to the rating of the Offeror's proposal in both the technical and cost components of the evaluation and an identification of any areas in the proposal deemed deficient. The Department will not provide any documents/materials at a Debriefing as their release is subject to NYS FOIL laws.

During a **pre-award** Debriefing, the Department:

- will limit the discussion to the reasons why the Offeror's proposal/bid was unsuccessful;
- will not provide information concerning any other Offerors' proposals, including the winning proposal; will not discuss any other aspects of the Procurement Record, including but not limited to the detailed scoring and evaluation criteria as such information is subject to NYS FOIL laws; and
- may, but is not required to, offer general advice and guidance to the Offeror for the Offeror's consideration as regards future bidding opportunities.

During a **post-award** Debriefing, the Department:

- will provide information as to the reasons why the Offeror's proposal/bid was unsuccessful;
- will provide information concerning the other Offerors' proposals, including the winning proposal, but only in the context of the bid evaluation scoring;
- will not discuss specific details of other Offerors' proposals, including their individual strengths and weakness as such information is subject to NYS FOIL laws
- will not discuss any other aspects of the Procurement Record, including but not limited to the detailed scoring and evaluation criteria as such information is subject to NYS FOIL laws and
- may offer advice and guidance to the Offeror for the Offeror's consideration as regards future bidding opportunities, including those services which were the subject matter of the procurement.

General:

- ✓ The Department will schedule the same amount of time for each Offeror who requests a debriefing.
- ✓ Debriefing will not be scheduled for more than one hour.
- ✓ Debriefings will be held individually with a requesting Offeror.
- ✓ The Department's Designated Agency Contact (i.e., the Procurement Manager) is the sole person authorized to schedule a Debriefing.
- ✓ The Offeror must provide a list of intended attendees prior to the Debriefing, including their titles or relationship to the Offeror and notify the Department if the Offeror is intending to bring legal counsel, so that the Department can notify agency legal counsel.
- ✓ At a minimum at least two agency employees must be present at each Debriefing.
- ✓ Debriefings will not be taped or transcribed by the Department, and Offerors are prohibited from taping the Debriefing.
- ✓ Any discussion of a proposal's strengths and weaknesses will relate to scoring of that bid submission against the Specification requirements, not against a competitor's proposal. The Department will not discuss the relative merits of one Offeror's submission against its competitors as that is not how proposals are evaluated and scored.
- ✓ Requests for copies of documents made by an Offeror at the Debriefing must be handled in accordance with the Department's FOIL procedures.

April 2011

This Exhibit has been intentionally left blank

NYS Department of Civil Service

2016 HMO Specifications

Notice of Intent

(Please PRINT HMO's Name Above)

With regard to these Specifications, (check one of the following boxes applicable):

☐ We **ARE INTERESTED & MAY** submit a response.

☐ We **ARE NOT INTERESTED & WILL NOT** be submitting a response because:

_____

_____

_____

_____

INTEREST IN M/WBE SUBCONTRACTING POSTING:
(Check box if applicable)

☐ Our firm is a NYS certified M/WBE interested in a subcontracting opportunity. Please add our firm's contact information, indicated at the top of this Form, to the list of certified M/WBE subcontractors that have expressed interest in this Procurement. The list will be posted on Department's web page for this Procurement. The NYS M/WBE certification documentation for our firm is attached.

Procurement Contact	**E-Page Contact**
Name of Contact at HMO	Name of Contact at HMO
Title	Title
Address	Address
Email Address	Email Address
Date / /	

The completed form may be emailed, faxed and/or mailed to the HMO Procurement Manager as set forth in Specifications Section 11.A.2.b.

Part 1 of this Exhibit I.K, as contained on the following page, should be completed by the HMO and emailed, faxed and/or mailed to the HMO Procurement Manager as set forth in Specifications, Section II.A.2.b.

Part 2 of this Exhibit I.K should, prior to initiating any contact with the Department, be completed for each HMO officer, employee, agent or consultant retained, employed or designated, by or on behalf of the HMO to appear before or contact the Department in regards to this Procurement and submit it to the HMO Procurement Manager specified in Specifications, Section II.A.2.b.

Part 1

Offeror's Affirmation of Understanding and Agreement

Instructions:

Pursuant to State Finance Law §§139-j and 139-k, this solicitation imposes certain procurement lobbying limitations. Offerors are restricted from making contacts during the procurement's "Restricted Period" (from the earliest written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from Offerors intending to result in a procurement contract with a governmental entity and ending with the final contract award and approval by the governmental entity and, where applicable, approval by the State Comptroller) to other than designated staff, unless the contact falls within certain statutory exceptions ("permissible contacts"). the Department's employees are required to obtain certain information from Offerors and others whenever there is a contact about the procurement during the Restricted Period, and are required to make a determination of the Offeror's responsibility that addresses the Offeror's compliance with the statutes' requirements. Findings of non-responsibility result in rejection for contract award, and if an Offeror is subject to two non-responsibility findings within four years the Offeror also will be determined ineligible to submit a proposal on or be awarded a contract for four years from the date of the second non-responsibility finding.

Further information about these requirements can be found at:
http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html.

As a prerequisite for participating in this procurement, an Offeror must provide the following Affirmation of Understanding and Agreement to comply with these procurement lobbying restrictions in accordance with State Finance Law §§139-j and 139-k.

Offeror Affirmation and Agreement

The Offeror affirms that it understands the procurement lobbying requirements set forth in State Finance Law §§139-j and 139-k, and agrees to comply with the Department's procedures regarding permissible contacts as required thereby.

Name of HMO:	
By:	
	(Signature)
Name:	
Title:	
Address:	
Date:	

Part 2

HMO Designated Contact	
First Name	
Last Name	
Company Name	
Company Address:	
Street Address	
City	
State	
Zip	
Individual's Business Telephone # (xxx) xxx-xxxx	
Principal Place of Business (1)	
Individual's Occupation	

(1) Enter the location of the individual's Principal Place of Business (e.g. Albany, NY

Complete the table above for each HMO officer, employee, agent or consultant retained, employed or designated, by or on behalf of the HMO to appear before or contact the Department in regards to this Procurement, prior to the individual initiating any contact with the Department, and submit it to the HMO Procurement Manager specified in Section II.A.2.b. of the Specifications.

State of New York
Department of Civil Service
Albany, NY 12239

ADMINISTRATION DIVISION

Procurement Lobbying Policy: Restrictions on Contacts During the Procurement Process

Policy on Restrictions on Contacts During the Procurement Process
Procurement Lobbying, Ch.4, L. 2010 State Finance Law (SFL)
Sections 139-j and 139-k

I. Definitions

For the purpose of this policy as it regards **2016 HMO Specifications**, the following definitions apply:

"Article of procurement" means a commodity, service, technology, public work, construction, revenue contract, the purchase, sale or lease of real property or an acquisition or granting of other interest in real property, that is the subject of a Department governmental procurement.

"Contacts" means any oral, written, or electronic communication with DCS or any other State governmental entity under circumstances where a reasonable person would infer that the communication was intended to influence the governmental entity's conduct or decision regarding the governmental procurement. However, any communications received by the Department from members of the State legislature or legislative staff, when acting in his or her official capacity, shall not be considered to be a "contact" and shall not be recorded by the Department's staff pursuant to this policy.

"Procurement Contract" means any contract or other agreement, including an amendment, extension, renewal, or change order to an existing contract (other than amendments, extensions, renewals, or change orders that are authorized and payable under the terms of the contract as it was finally awarded or approved by the comptroller, as applicable), for an article of procurement involving an estimated annualized expenditure in excess of $15,000. Grants, contracts entered into under SFL Article 11-B, and intergovernmental agreements shall not be deemed "procurement contracts" for the purpose of this policy.

"Governmental entity" means: (1) any department, board, bureau, commission, division, office, council, committee or officer of the state, whether permanent or temporary, including the Department; (2) each house of the state legislature; (3) the unified court system; (4) any public authority, public benefit corporation or commission created by or existing pursuant to the public authorities law; (5) any public authority or public benefit corporation, at least one of whose members is appointed by the governor or who serves as a member by virtue of holding a civil office of the state; (6) a municipal agency, as that term is defined in paragraph (ii) of subdivision (s) of section one-c of the legislative law; (7) a subsidiary or affiliate of such a public authority.

"Offeror" means any individual or entity, or any employee, agent, consultant, or person acting on behalf of such individual or entity, who contacts the Department or any other State governmental entity about a governmental procurement during that procurement's restricted period of such governmental procurement whether or not the caller has a financial interest in the outcome of the procurement; provided, however, that a governmental agency or its employees that communicates with the Department regarding a governmental procurement in the exercise of its oversight duties shall not be considered an Offeror. "Offeror" includes prospective Offerors prior to the due date for the submission of offers/bids in response to the solicitation document.

"Proposal" means any bid, quotation, offer or response to the Department's solicitation of submissions relating to procurement.

"Governmental procurement" means:

a) the public announcement, public notice, or public communication to any potential vendor of a determination of need for a procurement, which shall include, but not be limited to, the public notification of the specifications, , bid documents, request for proposals or evaluation criteria for a procurement contract;

b) the solicitation for a procurement contract;

c) the evaluation of a procurement contract;

d) the award, approval, denial, or disapproval of a procurement contract; or

e) the approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the procurement contract as it was finally awarded or approved by the State Comptroller, as applicable), renewal or extension of a procurement contract, or any other material change in the procurement contract resulting in a financial benefit to the Offeror/Contractor.

"Restricted period" means the period of time commencing with the earliest written notice, advertisement or solicitation of a request for proposal, or invitation for bids, or solicitation of proposals, or any other method for soliciting a response from Offerors intending to result in a procurement contract, and ending with the final contract award and approval of the Department and, where applicable, the State Comptroller.

"Revenue contract" means any written agreement between the Department and an Offeror whereby the Department gives or grants a concession or a franchise.

II. Designated Contacts

For each governmental procurement, the Department shall at the same time that a restricted period is imposed, designate, with regard to each governmental procurement, a person or person(s) who are knowledgeable about the procurement and who may be contacted by Offerors relating to the governmental procurement. Each Offeror who contacts the Department during procurement's restricted period is permitted to make permissible contacts only the person(s) designated by the Department for that purpose (i.e., Designated Contact). Such contacts must comply with the requirements established by SFL sections 139-j and 139-k, and with the requirements set forth by the Department in the solicitation document.

III. Offeror Affirmation of Understanding and Agreement to Comply

As a threshold requirement to participating in a procurement, the Department shall require each Offeror to provide written affirmation of its understanding of and agreement to comply with the Department's policy and procedures relating to permissible contacts during the governmental procurement's restricted period. Such a written affirmation by an Offeror shall be deemed to apply to any amendments to a procurement submitted by the Department after an initial affirmation is received with an initial bid.

IV. Contact Documentation

Upon any contact during the procurement's restricted period, the Department's staff shall obtain the name, address, telephone number, place of principal employment, and occupation of the person or organization making the contact, and also shall inquire whether the person or organization making the contact was the Offeror or was retained, employed, or designated by or on behalf of the Offeror to appear before or contact the Department about the procurement. All recorded contacts shall be recorded on the appropriate form(s) and included in the procurement record.

V. Non-responsibility Disclosure

The Procuring Agencies' staff shall ensure that all solicitation documents require Offerors to disclose findings of non-responsibility made within the previous four years by any State governmental entity where such prior finding of non-responsibility was due to:

a) a violation of the procurement lobbying requirements established at SFL section 139-j; or

b) the intentional provision of false or incomplete information to a government entity.

VI. Non-responsibility Determination

The failure of an Offeror to timely disclose accurate or complete information to the Department regarding the above shall be considered by the Department in their determination of the Offeror's responsibility. No procurement contract shall be awarded to any such Offeror, its subsidiaries, and any related or successor entity with substantially similar function, management, board of directors, officers and shareholders unless the Department finds that the award of the contract to that entity is necessary to protect public property or public health or safety, and that the entity is the only source capable of supplying the required article of procurement within the necessary timeframe, provided however, that the Department shall include in the procurement record a statement describing the basis for such finding.

VII. Contractor Certification

A contract award subject to SFL sections 139-j and 139-k shall contain a certification by the successful Offeror that all information provided to the Department with respect to the procurement lobbying requirements established by those sections is complete, true and accurate.

Each contract shall contain a provision authorizing the Department to terminate such contract in the event such certification is found to be intentionally false or intentionally incomplete. The Department shall include in the procurement record a statement describing the basis for such termination.

Any employee of the Department who becomes aware that an Offeror has made an impermissible contact(s) during the procurement shall immediately notify the DCS Ethics Officer or the DCS Director of Internal Audit. If an Offeror violates these requirements with regard to permissible contacts at a governmental entity other than the Department, the employee of that entity who becomes aware of the violation shall notify that entity's Ethics Officer, Inspector General, if any, or other official of that entity responsible for reviewing or investigating such matters, who shall in turn notify the DCS Ethics Officer or the DCS Director of Internal Audit.

VIII. DCS Review of Alleged Violations and the Imposition of Sanctions

a) If the DCS Ethics Officer or the DCS Director of Internal Audit receives notification of an allegation that an Offeror has made an impermissible contact during the procurement's restricted period as described above, the DCS Director of Internal Audit shall immediately investigate such allegation. If the position of Director of Internal Audit is vacant, the Ethics Officer shall conduct the investigation, or the Commissioner may appoint a designee to investigation the allegation. In no event shall the person conducting the investigation be someone who has participated in the preparation of the solicitation document, the evaluation of Proposals, or the selection decision.

b) If the investigation indicates that sufficient cause exists to believe that the allegation is true, the Department shall give the Offeror reasonable notice that an investigation is ongoing and an opportunity to be heard in response to the allegation. At the Department's discretion, such opportunity to be heard may be provided by giving the Offeror the opportunity to meet with the Department staff conducting the investigation or by the Offeror's submission of a written statement, or both. The Offeror may, but need not, be represented by counsel during the investigation. Any and all issues concerning the manner in which the investigation process is conducted shall be determined solely by the Department staff conducting the investigation.

c) If it is found that an Offeror has knowingly and willfully made an impermissible contact in violation of these requirements, then the Department staff making such findings shall report to the President of the Civil Service Commission related instances, if any, of any Department employee's violation of Public Officers Law sections 73(5) and 74.

IX. Sanctions

a) A finding that an Offeror has knowingly and willfully made an impermissible contact shall result in a determination of non-responsibility for such Offeror. Concomitantly, such Offeror and its subsidiaries, and any related or successor entity with substantially similar function, management, board of directors, officers and shareholders, shall not be awarded the procurement contract, unless the Department finds that the award of the procurement contract to that entity is necessary to protect public property or public health or safety, and that the entity is the only source capable of supplying the required article of procurement within the necessary timeframe. If such in the case, the Department shall include in the procurement record a statement describing the basis for such a finding.

b) Any subsequent determination of an Offeror's non-responsibility due to violation of these requirements within four years of a prior determination of non-responsibility due to a violation of these requirements shall result in the Offeror being rendered ineligible to submit a proposal on or be awarded any procurement contract for a period of four years from the date of the second non-responsibility determination.

X. Model Language For Solicitation Documents

The Department's staff shall ensure that the model language set forth below is included in all solicitation documents issued by the Department, subject to final review by their Offices of Counsel:

Restrictions on Contacts Between Offerors and State Staff During the Procurement Process

a) Pursuant to State Finance Law sections 139-j and 139-k, this procurement imposes certain procurement lobbying limitations. Offerors are restricted from making contacts during the procurement's "Restricted Period" to other than designated staff of the Department and the Executive Branch of New York State government, unless the contact falls within certain statutory exceptions ("permissible contacts"). Staff is required to obtain certain information from Offerors, and others whenever there is a contact about the procurement during the Restricted Period, and are required to make a determination of the Offeror's responsibility that addresses the Offeror's compliance with the statutes' requirements. Findings of non-responsibility result in rejection for contract award, and if an Offeror is subject to two non-responsibility findings within four years the Offeror also will be determined ineligible to submit a proposal on or be awarded a contract for four years from the date of the second non-responsibility finding. The Department's policy and procedures are attached as Exhibit I.K to these Specifications. Further information about these requirements can be found at:

http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html

b) In order to ensure public confidence and integrity in the procurement process, the Department will control strictly all communications between any Offeror and participants in the evaluation process from the earliest notice of intent to solicit offers in this procurement through the final award and approval of the procurement contract by the Department and OSC, if applicable. "Offeror" means any individual or entity, or any employee, agent, consultant, or person acting on behalf of such individual or entity, who contacts the Department or any other State governmental entity about a governmental procurement during that procurement's restricted period whether or not the caller has a financial interest in the outcome of the governmental procurement; provided, however, that a governmental agency or its employees that communicates with the Department regarding a governmental procurement in the exercise of its oversight duties shall not be considered an Offeror. "Offeror" includes prospective Offerors prior to the due date for the submission of offers/bids in response to the solicitation document. All contacts and inquiries concerning this procurement must be made to the Procurement Manager. The Department shall disqualify any Offeror who fails to comply with this requirement.

Procurement Manager
Attn: Linda Burk
NYS Civil Service
Agency Bldg. 1
Empire State Plaza
Albany, NY 12239
Fax: **(518) 402-2835**
E-mail: **HMO2016Specifications@cs.ny.gov**

Additionally, any Offeror is strictly prohibited from making any contacts or inquiries concerning the procurement with any member, officer or employee of any governmental entity other than the Department from the date the public announcement, public notice, or public communication to any potential vendor of a determination of need for a procurement, which shall include, but not be limited to, the date the IFB is released until the end of the procurement, subject only to the specific exceptions listed below. Further, any Offeror shall not attempt to influence the procurement in any manner that would result in a violation or an attempted violation of Public Officers Law sections 73(5) or 74.

c) The following contacts are exempted from the provisions of paragraph 3 of section 139-j and as such do not need to be directed to the Procurement Manager pursuant to section 139-k:

(1) the submission of written proposals in response to the solicitation document;

(2) the submission of written questions by a method set forth in the solicitation document when all written questions and responses are to be distributed to all Offerors who have expressed an interest in the procurement;

(3) participation in a demonstration, conference or other means for exchange of information in a setting open to all potential bidders provided for in the solicitation document;

(4) complaints by an Offeror regarding the failure of the Department's Procurement Manager to respond to an Offeror's authorized contacts, when such complaints are made in writing to the Department's Office of the General Counsel, provided that any such written complaints shall become a part of the procurement record;

(5) communications by a successful Offeror(s) who has been tentatively awarded a contract and is engaged in communications with the Department solely for the purpose of negotiating the terms of the contracts after having been notified of tentative award;

(6) contact by an Offeror to request the review of a procurement award when done in accordance with the procedure specified in the solicitation document;

(7) A. contacts by an Offeror in protests, appeals or other review proceedings (including the apparent successful Offeror and its representatives) before the Department seeking a final administrative determination, or in a subsequent judicial proceeding; or

B. complaints of alleged improper conduct in the procurement when such complaints are made to the State Attorney General, Inspector General, District Attorney, or to a court of competent jurisdiction; or

C. protests, appeals or complaints to the State Comptroller's office during the process of contract approval, where the State Comptroller's approval is required provided that the state comptroller shall make a record of such communications and any response thereto which shall be entered into the procurement record pursuant to State Finance Law section 163; or

D. complaints of alleged improper conduct in a governmental procurement conducted by a municipal agency or local legislative body to the state comptroller's office; and

(8) communications between Offerors and governmental entities that solely address the determination of responsibility by a governmental entity of an Offeror.

Revised 4/2011

State of New York
Department of Civil Service
Alfred E. Smith State Office Building
Albany, NY 12239

Compliance with Public Officers Law Requirements

ADM-992 (1/07)

The New York State Public Officers Law ("POL"), particularly POL Sections 73 and 74, as well as all other provisions of New York State law, rules and regulations, and policy establishes ethical standards for current and former State employees. In submitting its Submission, the HMO must guarantee knowledge and full compliance with such provisions for purposes of these Specifications and any other activities including, but not limited to, contracts, bids, offers, and negotiations. Failure to comply with these provisions may result in disqualification from the procurement process, termination, suspension or cancellation of the contract and criminal proceedings as may be required by law.

The HMO hereby submits its affirmative statement as to the existence of, absence of, or potential for conflict of interest on the part of the HMO because of prior, current, or proposed contracts, engagements, or affiliations.

Please provide below an affirmative statement as to the existence of, absence of, or potential for conflict of interest on the part of the HMO because of prior, current, or proposed contracts, engagements, or affiliations. Please attach additional pieces of paper as necessary.

Name of HMO: _____

Name & Title of Representative: _____

Signature:

_____

Date: _____

State of New York
Department of Civil Service
Albany, NY 12239

Compliance with Americans with Disabilities Act

ADM-987 (1/07)

The HMO hereby provides assurance of its compliance with the Americans With Disabilities Act (42 USC§12101 et. seq.), in that any services and programs provided during the course of performance of the Agreement resultant from these Specifications shall be accessible under Title II of the Americans With Disabilities Act, and as otherwise may be required under the Americans With Disabilities Act.

Name of HMO: _____

Name & Title of Representative: _____

Signature:
_____

Date: _____

State of New York
Department of Civil Service
Albany, NY 12239

MWBE UTILIZATION PLAN

OFFICE OF FINANCIAL ADMINISTRATION **MWBE-100 (9/2011)**

INSTRUCTIONS: All Offerors must complete this MWBE Utilization Plan and submit it as part of their Proposal. The Plan must contain a detailed description of the services to be provided by each Minority and/or Woman-Owned Business Enterprise (M/WBE) identified by the Offeror.

Offeror Name:			**Federal Identification No.:**	
Address:			**Solicitation No.:**	
City, State, Zip Code:			**M/WBE Goals for the Solicitation: MBE: % WBE: %**	
1. M/WBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.	**2. Classification**	**3. Federal ID No.**	**4. Detailed Description of Work (Attach additional sheets, if necessary.)**	**5. Dollar Value of Subcontracts/Supplies**
A.	**NYS ESD Certified** ☐ **MBE** ☐ **WBE**			
B.	**NYS ESD Certified** ☐ **MBE** ☐ **WBE**			

6. WAIVER REQUESTED: MBE: ☐ YES ☐ NO If YES, submit form MWBE101 / WBE: ☐ YES ☐ NO If YES, submit form MWBE101

PREPARED BY (Signature):	**TELEPHONE NO.:**	**EMAIL ADDRESS:**
NAME AND TITLE OF PREPARER (Print or Type):		
DATE: Offeror's Certification Status: ☐ MBE ☐ WBE		

SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FIUNDING OF NONCOMPLIANCE AND/OR PROPOSAL DISQUALIFICATION.

********************FOR DEPARTMENT USE ONLY********************

REVIEWED BY:	**DATE:**

UTILIZATION PLAN APPROVED: ☐ YES ☐ NO Date:____

MBE CERTIFIED: ☐ YES ☐ NO

WBE CERTIFIED: ☐ YES ☐ NO

WAIVER GRANTED: ☐ YES ☐ NO

☐ Total Waiver ☐ Partial Waiver

NOTICE OF DEFICIENCY ISSUED: ☐ YES ☐ NO

Date: _____

Exhibit I.P - Offeror's Certification of Compliance

State of New York **Department of Civil Service** **Albany, NY 12239**	**ADMINISTRATION DIVISION** **Procurement Lobbying** **Offeror's Certification of Compliance** ADM-983(12/06)

Instructions:

New York State Finance Law (SFL) §139-k(5) requires that every contract award subject to the provisions of SFL §§139-k or 139-j shall contain a certification by the HMO that all information provided to the DCS with respect to SFL §139-k is complete, true and accurate.

At the time an Offer or Bid is submitted to the DCS, the Offeror/Bidder must provide the following certification that the information it has and will provide to the DCS pursuant to SFL §139-k is complete, true and accurate including, but not limited to, disclosures of findings of non-responsibility made within the previous four years by any State governmental entity where such finding of non-responsibility was due to a violation of SFL §139-j or due to the intentional provision of false or incomplete information to a State governmental entity.

HMO Certification

I certify that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

Name of HMO: _____

By: _____
(Signature)

Name: _____

Title: _____

Address: _____

_____

Date: _____

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

M/WBE AND EEO POLICY STATEMENT

I, _____, the (awardee/contractor) _____ agree to adopt the following policies with respect to the project being developed or services rendered at the New York State Department of Civil Service.

M/WBE

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

(1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
(2) Request a list of State-certified M/WBEs from the Department and solicit bids from them directly.
(3) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
(4) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
(5) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

EEO

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.
(b)This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.
(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.
(d) The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic

characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract

Agreed to this _____ day of _____, 2015

By _____

Print: _____ Title: _____

_____is designated as the Minority Business Enterprise Liaison
(Name of Designated Liaison)
responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment Opportunity (M/WBE-EEO) program.

(1) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.

M/WBE Contract Goals

% Minority and Women's Business Enterprise Participation

% Minority Business Enterprise Participation

% Women's Business Enterprise Participation

EEO Contract Goals

% Minority Labor Force Participation

% Female Labor Force Participation

_____
(Authorized Representative)

Title: _____

Date: _____

"2016 HMO Specifications"

Questions Template

Question Number	Specification Page #	Section and Sub-Section Reference	Question

HMO are requested to use the Questions Template table above in submitting questions. An HMO's questions must be submitted to the HMO Procurement Manager at the address specified in Section II.A.6 of this Specifications, with an electronic copy (in Microsoft Word format) of the HMO's questions sent to the HMO Procurement Manager's attention at: **HMO2016Specifications@cs.ny.gov.**

[TO BE COMPLETED ON HMO'S LETTERHEAD]

Date

HMO Procurement Manager
Employee Benefits Division – Room 1106
NYS Department of Civil Service
Albany, NY 12239

RE: HMO Specifications entitled: "2016 HMO Specifications for the New York State Health Insurance Plan (NYSHIP)" Firm Offer to the State of New York

[INSERT HMO NAME] hereby submits this firm and binding offer to the State of New York in response to the Department's HMO Specifications entitled **"2016 HMO Specifications for the New York State Insurance Plan (NYSHIP)."** The Proposal hereby submitted meets or exceeds all terms, conditions, and requirements set forth in the above-referenced Specifications and in the manner set forth in these Specifications.

[INSERT HMO NAME] accepts the terms and conditions as set forth in Specifications, Section VI and Appendices A, B, C, and D and agrees to satisfy the comprehensive programmatic duties and responsibilities outlined in these Specifications in the manner set forth in these Specifications.

[INSERT HMO NAME] agrees to execute a contractual agreement composed substantially of the terms and conditions set forth in the draft contract included in these Specifications, and accepts as non-negotiable the terms and conditions set forth in Appendices A, B, C and D to the draft contract.

[INSERT HMO NAME] further agrees, if selected as a result of these Specifications, to comply with 1) the provisions of Tax Law Section 5-a, Certification Regarding Sales and Compensating Use Tax; and 2) the Workers' Compensation Law as set forth in Section II.B.7 of these Specifications.

This formal offer will remain firm and non-revocable for a minimum period of 365 days from the Proposal Due Date as set forth in these Specifications. In the event that a contract is not approved by the NYS Comptroller within the 365 day period, this offer shall remain firm and binding beyond the 365 day period and until a contract is approved by the NYS Comptroller, unless **[INSERT HMO NAME]** delivers to the Department of Civil Service written notice of withdrawal of its Proposal.

[INSERT HMO NAME]'s complete offer is set forth as follows:

Total of two (2) Original hardcopies both with original signatures and one (1) electronic copy (CD); copy of each proposal sent to each member of the Joint Labor/Management Committee listed on Exhibit II.B.

The undersigned affirms and swears s/he has the legal authority and capacity to sign and make this offer on behalf of, **[INSERT HMO NAME]** and possesses the legal authority and capacity to act on behalf of **[INSERT HMO NAME]** to execute a contract with the State of New York.

The undersigned affirms and swears as to the truth and veracity of all documents included in this offer.

Date:_____ **[INSERT HMO NAME]**

By: _____
(signature)

_____
(name)

_____
(title)

_____
(phone number)

_____
(email address)

CORPORATE OR PARTNERSHIP ACKNOWLEDGMENT

STATE OF }
: **SS.:**
COUNTY OF }

On the ____ day of _____in the year 2015, before me personally appeared: _____, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that _he resides at _____, Town of _____, County of _____ , State of _____ ; and further that:

[Check One]

(___ If a corporation): _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(___If a partnership): _he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.

_____
Notary Public

An authorized representative of the HMO who is legally authorized to certify the information requested in the name of and on behalf of the HMO is required to complete and sign the HMO Attestations and provide all requested information. HMO's authorized representative must certify as to the truth of the representations made by signing where indicated, below.

CERTIFICATION:
The HMO (1) recognizes that the following representations are submitted for the express purpose of assisting the State of New York in making a determination to award a contract; (2) acknowledges and agrees by submitting the Attestation, that the State may at its discretion, verify the truth and accuracy of all statements made herein; (3) certifies that the information submitted in this certification and any attached documentation is true, accurate and complete.

Name of Business Entity Submitting Submission:		
Entity's Legal Form:		□ Corporation □ Partnership □ Sole Proprietorship □ Other _____
No.	**Ref.**	Requirement:
1.	Section III.B.1	As of the Submission Due Date, HMO represents and warrants that it: □ possesses □ does not possess the legal capacity to enter into a contract with the President of the New York State Civil Service Commission ("Commissioner").
2.	Section III.B.2	As of the Submission Due Date, HMO represents and warrants that it: □ is □ is not (1) licensed to transact accident and health insurance business in New York State in accordance with Article 44 of the Public Health Law, and/or (2) subject to Article 43 of the New York State Insurance Law, and/or (3) certified/licensed in accordance with the certification and oversight jurisdiction imposed by another state where applicable. In the case of an HMO proposing a Service Area in both New York and New Jersey, the New Jersey benefits must provide the same plan as New York and comply with requirements of the Specifications and federal law.
3.	Section III.B.3	As of the Submission Due Date, HMO represents and warrants that it: □ is □ is not in operation as a going concern, as cited in Section III.B.2 of these Specifications, at least two (2) years prior to the Submission Due Date set forth in Section II.A.1 - Time Line of Key Events - of these Specifications.
4.	Section III.B.4	As of the Submission Due Date, HMO acknowledges and agrees that it: □ is □ is not accredited by the National Committee on Quality Assurance (NCQA**)** and/or Utilization Review Accreditation Committee (URAC). Submit current status of the NCQA and/or URAC ranking.

5.	Section III.B.5	As of the Submission Due Date, HMO represents and warrants that it: □ has □ will have the required certification for its requested Service Area as cited in Section III.B.2 of these Specifications on or before the Notification of Approval/Disapproval Date set forth in Section II.A.1.
6.	Section III.B.6	As of the Submission Due Date, HMO represents and warrants that it: □ will □ will not agree to accept all determinations of eligibility as made by the Department and provide a rider that is identical to the NYSHIP eligibility criteria presented in Section IV.A and Exhibit II.C of the Specifications.
7.	Section III.B.7	As of the Submission Due Date, HMO represents and warrants that it: □ will □ will not agree to use the enrollment data transmission protocol and encryption method stipulated by the Department. The current data transmission protocol must be Secure FTP, and the current encryption methodology must be PGP or as otherwise specified by the Department. Secure FTP must be compatible with the Open SSH implementation of Secure FTP. Further, the HMO agrees to execute the Department's Third Party Connection Agreement and Third Party User Agreement and their amendments as required and any other agreement or protocol required by the Department to ensure the security of its data transmissions.
8.	Section III.B.8	At the time of submission HMO represents and warrants that it: □ will □ will not provide coverage to both NYSHIP primary and Medicare primary enrollees and dependents that comply with the requirements of the Specifications throughout the term of the agreement. If the HMO has an approved Medicare Advantage Plan with Part D coverage in a Commercial Plan service area it MUST offer the Medicare Advantage Plan to Medicare primary enrollees. HMOs cannot offer a Plan that provides coverage to Medicare eligible enrollees only.
9.	Section III.B.9	At the time of submission HMO represents and warrants that it: □ will □ will not offer a benefit design with essential health benefits that offers the same level of benefits as an allowable benchmark, which is Oxford. If the HMO does not use Oxford as a benchmark it must provide a rider to include the same essential benefits as Oxford. State the benchmark plan that the HMO has selected.

10.	Section III.B.10	At the time of submission HMO represents and warrants that it: □ will □ will not accept a signed and valid NYSHIP Authorization for Release of Protected Health Information form, or any alternative form developed during the contract term, for the purpose of the release of Protected Health Information to the Department.

Date: _____ _____

Signature
[INSERT OFFEROR NAME]
[INSERT TITLE]
[INSERT COMPANY NAME]

CORPORATE OR PARTNERSHIP ACKNOWLEDGMENT

STATE OF }
: SS.:
COUNTY OF }

On the ____ day of _____in the year 2015, before me personally appeared: _____, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that _he resides at _____, Town of _____, County of _____ , State of _____ ; and further that:

[Check One]

(___ If a corporation): _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(___If a partnership): _he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.

_____
Notary Public

Exhibit I.U.1 - Key Subcontractors or Affiliates

The HMO must complete and submit this Exhibit as part of its Submission. A separate form should be completed for each Key Subcontractor or Affiliate, if any. If the HMO will not be subcontracting with any Key Subcontractor(s) or Affiliate(s) to provide any of the services required under the Specifications, the HMO must complete and submit a single Exhibit I.U.1 to that affect.

INSTRUCTION: Prepare this form for each Key Subcontractor or Affiliate	
HMO's Name:	
The HMO: □ is □ is not proposing to utilize the services of a Key Subcontractor(s) or Affiliate(s) to provide Program Services □ is □ is not proposing to utilize the services of a subcontractor(s) to provide Program Services totaling $100,000 or more during the term of the 5 year agreement	
Subcontractor's Legal Name:	
Business Address:	
Subcontractor's Legal Form:	□ Corporation □ Partnership □ Sole Proprietorship □ Other _____
As of the date of the HMO's Submission, a subcontract □ has □ has not been executed between the HMO and the subcontractor(s) for services to be provided by such subcontractor(s) relating to HMO Program Services.	
In the space provided below, describe the Key Subcontractor's or Affiliate's role(s) and responsibilities regarding Program Services to be provided.	
Relationship between HMO and Key Subcontractor or Affiliate for Current Engagements: (Complete items 1 through 5 for each client engagement identified)	
1. Client:	
2. Client Reference Name and Phone #	
3. Program Title:	
4. Program Start Date:	
5. In the space provided below, Program Status:	
6. In the space provided below, describe the roles and responsibilities of the HMOr and subcontractor in regard to the program identified in 3, above:	

Exhibit I.U.2 – New York Subcontractors and Suppliers

2016 HMO Specifications

NEW YORK SUBCONTRACTORS AND SUPPLIERS

As stated in Section II.B.11 of the Specifications, HMOs are encouraged to use New York State businesses in the performance of Program Services. Please complete the following exhibit to reflect the HMO's proposed utilization of New York State businesses.

Name(s) of New York Subcontractors and/or Suppliers	Address, City, State, and Zip Code	Description of Services or Supplies Provided	Estimated Value Over 5-Year Contract Period	Identify if Subcontractor or Supplier

This Exhibit has been intentionally left blank

Exhibit I.W - Compliance with NYS Workers' Compensation Law

Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) provide that the Department shall not enter into any contracts unless proof of workers' compensation and disability benefits insurance coverage is produced. Prior to entering into contracts with DCS, the selected Offeror will be required to verify for DCS, on forms authorized by the New York State Workers' Compensation Board, the fact that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed below. DCS requests the Offeror submit this insurance verification information with their Proposals. Any questions relating to either workers' compensation or disability benefits coverage should be directed to the State of New York Workers' Compensation Board, Bureau of Compliance at (518)486-6307. You may also find useful information at their website http://www.wcb.state.ny.us. Failure to provide verification of either of these types of insurance coverage by the time the winning Offeror is selected and the Contract is ready to be executed will be grounds for disqualification of an otherwise successful Proposal.

Workers' Compensation Requirements under WCL § 57:

To comply with coverage provisions of the WCL, businesses must:

A) be legally exempt from obtaining workers' compensation insurance coverage; or
B) obtain such coverage from insurance carriers; or
C) be a Board-approved self-insured employer or participate in an authorized group self-insurance plan.

To assist State and municipal entities in enforcing WCL Section 57, businesses requesting permits or seeking to enter into contracts **MUST** provide **ONE** of the following forms to the government entity issuing the permit or entering into a contract:

A) CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage [(1)]; **OR**
B) C-105.2 -- Certificate of Workers' Compensation Insurance (the business's insurance carrier will send this form to the government entity upon request) **PLEASE NOTE**: The State Insurance Fund provides its own version of this form, the U-26.3; **OR**
C) SI-12 -- Certificate of Workers' Compensation Self-Insurance (the business calls the Board's Self-Insurance Office at 518-402-0247), **OR** GSI-105.2 -- Certificate of Participation in Worker's Compensation Group Self-Insurance (the business's Group Self-Insurance Administrator will send this form to the government entity upon request).

Disability Benefits Requirements under Workers' Compensation Law §220(8)

To comply with coverage provisions of the WCL regarding disability benefits, businesses may:

A) be legally exempt from obtaining disability benefits insurance coverage; or
B) obtain such coverage from insurance carriers; or
C) be a Board-approved self-insured employer.

Accordingly, to assist State and municipal entities in enforcing WCL Section 220(8), businesses requesting permits or seeking to enter into contracts **MUST** provide **ONE** of the following forms to the entity issuing the permit or entering into a contract:

A) CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage[(1)]; **OR**
B) DB-120.1 -- Certificate of Disability Benefits Insurance (the business's insurance carrier will send this form to the government entity upon request); **OR**
C) DB-155 -- Certificate of Disability Benefits Self-Insurance (the business calls the Board's Self-Insurance Office at 518-402-0247).

[(1)] *Starting December 1, 2008, Form CE-200 can be filled out electronically on the Board's website, www.wcb.state.ny.us, under the heading "Forms." Applicants filing electronically are able to print a finished Form CE-200 immediately upon, completion of the electronic application. Applicants without access to a computer may obtain a paper application for the CE-200 by writing or visiting the Customer Service Center at any District Office of the Workers' Compensation Board. Applicants using the manual process may wait up to four weeks before receiving a CE-200. Once the applicant receives the CE-200, the applicant can then submit that CE-200 to the government agency from which he/she is getting the permit, license or contract.*

Exhibit II.A

Time Line of Key Events for 2016

Release of **Specifications** for Health Maintenance Organizations Participation in the New York State Health Insurance Program.	April 23, 2015
Notice of Intent as described in Section II.A.3 of the 2016 Specifications must be submitted to gain access to the HMO ePage to complete a Choices Page.	May 26, 2015
Proposal Due Date (must be submitted to the Department and all JLMC Members as described in Section II A.1. of the 2016 Specifications).	**June 4, 2015**
Clarifying Questions Sent to HMOs.	July 22, 2015
HMO Interviews, if necessary, as described in Section II.A.9. of the 2016 Specifications.	Week of July 27, 2015
Responses due from HMOs to clarifying questions (must be submitted to all Contact Members).	August 6, 2015
Notification of Approval/Disapproval Date as described in Section II.A.10. of 2016 Specifications.	August 18, 2015
HMO acknowledgement of receipt of notification letter and compliance with any requests listed.	September 10, 2015
Deadline for Submission of Premium Rates to the Department (including all applicable riders) as described in Section IV. F. of these Specifications and in compliance with requirements stated in the annual Premium Rate Call Letter sent by the DCS.	**September 1, 2015 (tentative – due date stated in Premium Rate Call Letter may differ and is controlling)**
Deadline for mailing Required Communications Materials to existing plan members as required in Section IV.D.2. of the 2016 Specifications (must be submitted to all JLMC Members). **HMO must submit confirmation to the Department upon completion of all member communications mailings.**	October 21, 2015
Deadline for HMOs to submit copies of Optional Marketing Material as described in Section IV.D.4. of the 2016 Specifications (must be submitted to all JLMC Members).	November 4, 2015
Deadline for Rate Acknowledgment Documentation (e.g. Rate submission filed with the New York State Department of Financial Services (DFS), DFS SERFF Disposition Notice acknowledging approval or rejection of rate change submission) to the Department of Civil Service. Note: NYSHIP rates submitted to the Department that have been filed and approved by DFS must be accompanied by the required documentation of approval at the time of submission.	February 2016

Exhibit II.B

Joint Labor/Management Committee (JLMC) on Health Benefits Contacts

HMOs are required to send the documents specified in Specifications to each of the contact members below. Documents must be sent in hardcopy and CD.

Darryl Decker
Director
NYS Governor's Office of Employee Relations
Employee Benefits Management Division
Agency Building 2, 11th Floor
2 Empire State Plaza, Suite 1201
Albany, New York 12223-1250

David J. Boland
Director
Employee Benefits Division
New York State Department of Civil Service
Albany, New York 12239

Dawn Dugan
Deputy Director
Civil Service Employees Association
One Lear Jet Lane - Suite Four
Latham, New York 12110-2392

Lorraine Simpkins
Health Benefits Specialist
Public Employees Federation
P.O. Box 12414
Albany, New York 12212-2414 (regular mail)

1168-70 Troy-Schenectady Road
Latham, New York 12110 (overnight mail)

Bill LeBeau
Organizing Director
Council 82 – AFSCME
63 Colvin Avenue
Albany, New York 12206

Woody Erickson
Health Care Committee
Police Benevolent Association of New York State
11 North Pearl Street – Suite 1200
Albany, New York 12207

Jeffrey Kayser
President
New York State Police Investigators Association
IUPA, Local 4, AFL-CIO
11 North Pearl Street – Suite 1202
Albany, New York 12207

Willie Chang
Senior Director – Health Planning
District Council 37, AFSCME AFL-CIO
125 Barclay Street
New York, NY 10007

Mark D. Robillard
Vice President
Police Benevolent Association
120 State Street - Suite 1212
Albany NY 12207

Karen Dombrowski
Member Benefits Representative
United University Professions
PO Box 15143
Albany, New York 12212-5143 (regular mail)

800 Troy-Schenectady Road
Latham, New York 12110 (overnight mail)

Sharon Smith
Health Benefits Specialist
NYSCOPBA
102 Hackett Boulevard
Albany, New York 12209

Exhibit II.C

2016 NYSHIP Dependent Eligibility Rider

The following dependents are eligible for NYSHIP coverage:

1. Your spouse, including a legally separated spouse, is eligible. If you are divorced or your marriage has been annulled, your former spouse is not eligible, even if a court orders you to maintain coverage.

2. Your Domestic Partner. You may cover your same or opposite sex domestic partner as your dependent under NYSHIP. A domestic partnership, for eligibility under NYSHIP, is one in which you and your partner are 18 years of age or older, unmarried and not related in a way that would bar marriage, living together, involved in an exclusive mutually committed relationship and financially interdependent. To enroll a domestic partner, you must have been in the partnership for six months and be able to provide proof of 6 months of cohabitation and 6 months of financial interdependence. There is a one year waiting period from the termination date of your previous partner's coverage before you may again enroll a domestic partner.

3. Your children under 26 years of age are eligible. This includes your natural children, legally adopted children, children in a waiting period prior to finalization of adoption, your stepchildren and children of your domestic partner who are covered without regard to financial dependence, residency with you, student status or employment. Other children who reside permanently with you in your household, who are chiefly dependent on you and for whom you have assumed legal responsibility, in place of the parent, also are eligible; you must verify eligibility and provide documentation to your Employer upon enrollment and every two years thereafter. For “other children,” legal responsibility by you must have commenced before the child reached 19.

4. For purposes of eligibility for health insurance coverage as a dependent you may deduct from your dependent’s age up to four years for service in a branch of the U.S. Military between the age of 19 and 25 for those dependents that return to school on a full time basis, are unmarried and are otherwise not eligible for employer group coverage. You must be able to provide written documentation from the U.S. Military. Proof of full-time student status at an accredited secondary or preparatory school, college or other educational institution will be required by the HMO for verification.

5. Your unmarried dependent children 26 or over who are incapable of self-sustaining employment by reason of mental illness, developmental disability, mental retardation as defined in the mental hygiene law, or physical handicap who became so incapable prior to attainment of the age at which dependent coverage would otherwise be terminated are eligible.

   The HMO will accept determinations of total disability under the above standards made by other group health plans provided that there has not been a break in coverage between plans.

6. Your unmarried children, including adopted and step children through age twenty-nine (“Young Adult”), who live, work, or reside in New York State or the service area of the HMO’s network-based NYSHIP policy and who:

   a.) are not insured by or eligible for coverage through the Young Adult’s own employer-sponsored health plan, whether insured or self-funded, provided that the health plan includes both hospital and medical benefits, and

   b.) are not covered under Medicare;

   are eligible for coverage under the Young Adult Option.

In addition:

c.) the Young Adult need not live with the parent, be financially dependent upon the parent, or be a student;

d.) the Young Adult's eligibility for health insurance coverage through a former employer under federal COBRA or State continuation coverage does not disqualify the Young Adult from electing the young adult option under NYSHIP;

e.) the Young Adult's children are not eligible for coverage under the Young Adult Option, but may be eligible for health insurance coverage under other programs, such as the Child Health Plus program;

f.) the parent need not have family coverage for the young adult to enroll in the Young Adult Option;

g.) the Young Adult need not have been previously covered under the parent's NYSHIP coverage.

The HMO must accept all NYSHIP determinations of eligibility for enrollment in this coverage. Coverage of a Young Adult as described in this paragraph shall consist of coverage which is identical to the coverage provided to a NYSHIP enrollee. If the parent is enrolled in the HMO, coverage is available for the Young Adult who lives, works or resides outside of the parent's HMO service area but within New York State. However, the parent of the Young Adult need not be enrolled in the HMO in order for the Young Adult to have NYSHIP coverage through the plan in which he/she is enrolling as long as the Young Adult lives, works or resides in that HMO's service area. The parent must only be a NYSHIP enrollee (including under COBRA).

Coverage shall terminate on the first of the following to occur:

a. the Young Adult voluntarily terminates coverage;
b. the Young Adult's parent no longer is enrolled in NYSHIP;
c the Young Adult no longer meets the eligibility requirements for the Young Adult Option as outlined above;
d. the NYSHIP premium for the Young Adult is not paid in full within the 30-day grace period;
e. the group contract is terminated and not replaced.

The dependent child does not have a separate federal COBRA or New York State continuation right at the time coverage through this option terminates.

A Young Adult and his/her parent have the following opportunities to enroll in the Young Adult Option:

1. When the Young Adult Would Otherwise Lose Coverage Due to Age

   Coverage may be elected within 60 days of the date that the Young Adult otherwise would lose eligibility for coverage as his/her parent's dependent due to age. Coverage is retroactive to the date that the Young Adult otherwise would have lost coverage due to age. This is the only circumstance in which the Young Adult Option will be effective on a retroactive basis.

2. When the Young Adult is Newly Qualified Due to a Change in Circumstances

   Coverage may be elected within 60 days of the date that the Young Adult newly meets the eligibility requirements for the Young Adult Option, such as due to loss of coverage through his/her employer; moves his/her residence into New York State; or gets divorced. It is possible for a Young Adult to elect coverage under this option on multiple occasions due to changes in the young adult's eligibility over time. Coverage will be effective prospectively, no later than 30 days after NYSHIP receives written notice of the election and payment of the first premium.

3. During the Young Adult Option Annual 30-Day Open Enrollment Period

   Coverage may be elected during the Young Adult Option's annual 30-day open enrollment period which is expected to coincide with NYSHIP's Annual Option Transfer Period. Coverage under this option will be effective prospectively.

Exhibit II.D

NYSHIP Enrollment Statistics

By NYS County and by State

COUNTY	Individual	Family	Total
ALBANY	16,118	12,058	28,176
ALLEGANY	527	691	1,218
BRONX	4,762	3,739	8,501
BROOME	3,666	3,751	7,417
CATTARAUGUS	1,125	1,184	2,309
CAYUGA	1,203	1,778	2,981
CHAUTAUQUA	1,221	1,627	2,848
CHEMUNG	1,128	1,837	2,965
CHENANGO	711	985	1,696
CLINTON	2,054	3,225	5,279
COLUMBIA	1,235	1,592	2,827
CORTLAND	879	970	1,849
DELAWARE	612	889	1,501
DUTCHESS	4,212	5,149	9,361
ERIE	11,547	12,988	24,535
ESSEX	468	820	1,288
FRANKLIN	1,564	2,306	3,870
FULTON	617	679	1,296
GENESEE	681	1,063	1,744
GREENE	1,090	1,394	2,484
HAMILTON	142	192	334
HERKIMER	646	1,038	1,684
JEFFERSON	952	1,656	2,608
KINGS	9,128	7,774	16,902
LEWIS	203	414	617
LIVINGSTON	1,255	1,306	2,561
MADISON	782	1,072	1,854
MONROE	3,482	3,578	7,060
MONTGOMERY	1,035	1,005	2,040
NASSAU	5,533	9,282	14,815
NEW YORK	5,031	2,443	7,474
NIAGARA	1,249	1,538	2,787
ONEIDA	4,582	5,158	9,740
ONONDAGA	5,791	6,206	11,997
ONTARIO	809	1,004	1,813
ORANGE	3,259	4,554	7,813
ORLEANS	529	736	1,265
OSWEGO	1,208	1,487	2,695
OTSEGO	1,033	1,132	2,165
PUTNAM	483	884	1,367

Exhibit II.D

NYSHIP Enrollment Statistics

By NYS County and by State

QUEENS	8,094	7,909	16,003
RENSSELAER	6,083	5,704	11,787
RICHMOND	2,693	3,221	5,914
ROCKLAND	2,560	2,849	5,409
SAINT LAWRENCE	2,518	3,141	5,659
SARATOGA	5,250	6,315	11,565
SCHENECTADY	5,083	5,293	10,376
SCHOHARIE	744	813	1,557
SCHUYLER	274	365	639
SENECA	687	672	1,359
STEUBEN	899	1,168	2,067
SUFFOLK	13,649	18,346	31,995
SULLIVAN	952	1,486	2,438
TIOGA	503	759	1,262
TOMPKINS	1,982	2,058	4,040
ULSTER	2,561	3,266	5,827
WARREN	757	1,123	1,880
WASHINGTON	915	1,375	2,290
WAYNE	865	949	1,814
WESTCHESTER	3,675	4,491	8,166
WYOMING	686	1,169	1,855
YATES	147	225	372
TOTAL NYS	**164,129**	**183,881**	**348,010**

Exhibit II.D

NYSHIP Enrollment Statistics

By NYS County and by State

STATE	Individual	Family	Total
AK	10	5	15
AL	204	68	272
AR	31	13	44
AZ	528	432	960
CA	522	244	766
CO	169	93	262
CT	767	1,368	2,135
DC	52	17	69
DE	132	122	254
FL	7,430	5,396	12,826
GA	869	448	1,317
HI	30	18	48
IA	13	5	18
ID	19	16	35
IL	133	62	195
IN	78	26	104
KS	25	13	38
KY	62	33	95
LA	40	15	55
MA	444	269	713
MD	361	165	526
ME	142	97	239
MI	106	65	171
MN	30	18	48
MO	56	28	84
MS	49	17	66
MT	19	24	43
NC	1,719	1,163	2,882
ND	1	1	2
NE	16	8	24
NH	129	79	208
NJ	2,803	4,551	7,354
NM	111	53	164
NV	343	201	544
NY	164,566	184,687	349,253
OH	159	59	218
OK	23	17	40
OR	86	46	132
PA	1,165	1,411	2,576
PR	62	42	104

Exhibit II.D

NYSHIP Enrollment Statistics

By NYS County and by State

RI	69	15	84
SC	1,017	838	1,855
SD	13	15	28
TN	258	267	525
TX	437	258	695
UT	27	26	53
VA	792	474	1,266
VI	7	2	9
VT	192	143	335
WA	120	69	189
WI	53	28	81
WV	65	28	93
WY	16	14	30
Total	**186,570**	**203,572**	**390,142**

March 2015

Exhibit II.E
SAMPLE provided for illustration

SAMPLE
HMO Schedule of Benefits

SERVICE CATEGORY	COVERAGE INFORMATION	
Physician Services	**Primary Care Physician Office Visits**	
	Adults	$25 Copay
	Sick Child Visits (Age 0-25)	$10 Copay
	Laboratory Services	No Charge
	Specialist Office Visits	
	Office Visits	$40 Copay
	Vision Exams *(every 2 years)*	$25 Copay
	X-ray Services	
	Inpatient Hospital Services	No Charge
	Anesthesiology	
	Radiology Visits/Consultations	
Preventive & Well Care Services	Well Baby, Child Care & Immunizations Adult Physical Mammography & Prostate Cancer Screening Annual Pap Test & Ob/GYN Exam Immunizations for Adults Colonoscopy & Sigmoidoscopy Screening for Adults Bone Density Tests	No Charge
Hospital	Hospital Inpatient	No Charge
	Hospital Outpatient Surgery	$40 Copay/Visit
	Hospital Outpatient X-ray	$25 Copay
	Hospital Outpatient Laboratory	No Charge
Maternity	Physician Services	$25 Copay for first visit
	Hospital Services	No Charge
	Nursery Care	No Charge
Emergency Room (ER) Visit		$75 Copay/Visit
Ambulance		$50 Copay/Trip
Chiropractic Benefit		$40 Copay/Office Visit
Durable Medical Equipment		50% Copay
Mental Health	Inpatient	No Charge
	Outpatient	$40 Copay/Visit
Substance Abuse Diagnosis & Treatment	Inpatient	No Charge
	Rehabilitation Outpatient	$25 Copay/Visit
Physical/Occupational/ Speech Therapy		$40 Copay/Visit
Home Health Care		$25 Copay/Visit
Prescription Coverage	Retail 30-Day Supply	$10 Copay Tier 1/$30 Copay Tier 2/$50 Copay Tier 3
	Mail Order 90-Day Supply	$10 Copay Tier 1/$30 Copay Tier 2/$50 Copay Tier 3
Lifetime Maximum Coverage		No Maximums

HMO:Insert additional benefit information, descriptions such as customer service contact information, PCP information, wellness programs, etc.

Exhibit II.F

HMO NAME
Side-by-Side Comparison
For New York State Employees
2015 to 2016

Sample if No Changes

Modified Benefit	2015 Benefit Level	2016 Benefit Level
There are no changes in either the benefits offered or delivery of services from 2015 to 2016		

Sample if Changes

Modified Benefit	2015 Benefit Level	2016 Benefit Level
Urgent Care Copay	$50 per visit	$35 per visit
Outpatient Surgery Facility	$30 per visit	$50 per visit

NEW YORK HMO COPAYMENT GUIDELINES (UPDATED 10/06)

Service	Old Maximum	New Maximum
Inpatient Hospital	$500/cont. confinement	$1,000/cont. confinement
Primary Care	$25/visit	$30/visit
Specialty Care	$40/visit	$50/visit
Maternity	$25/visit 20% up to $200 for delivery	$30/visit 20% up to $300 for delivery
Ambulatory Surgery (Facility)	$75	$150
Surgery	20% up to $200	20% up to $300
Diagnostic Lab	20% up to $100/procedure $500 annual max	20% up to $100/procedure $500 annual max
Radiology	20% up to $100/procedure $500 annual max	20% up to $100/procedure $500 annual max
Preadmission testing	20% up to $100/procedure $500 annual max	20% up to $100/procedure $500 annual max
Home Health Care	$25/visit	$30 for 1st 52 visits, $0 after
Chemotherapy	$25/visit	$30 for 1st 52 visits, $0 after
Dialysis	$25/visit	$30 for 1st 52 visits, $0 after
Diab eq/supplies	$25	$30 for 1st 52, $0 after
Outpatient Chem Dependence	$25	$30 for 1st 52 visits, $0 after
ER	$100(waived if admitted)	$150(waived if admitted)
Ambulance	$100	$100
Urgent Care		$35

State of New York
Department of Civil Service
Albany, NY 12239

EMPLOYEE BENEFITS DIVISION

New York State Health Insurance Program (NYSHIP) and New York Public Employee and Retiree Long Term Care Insurance Program (NYPERL)
Authorization for Release of Health Information
(w) EBD-543 (3/11L)

AUTHORIZATION FOR RELEASE OF PROTECTED HEALTH INFORMATION

NOTE: The only persons who can complete and sign this form to authorize the disclosure of personal information are:

- **The individual who is the subject of the information to be disclosed;**
- **A parent or legal guardian - only if the individual who is the subject of the information to be disclosed is a child under the age of 18; or**
- **A Personal Representative of the individual as designated through a Power of Attorney, Health Care Proxy, a court order, or other appropriate legal documentation.**

Part A – Identify the Person Whose Information is to be Released

Name: _____ Identification #: _____

Part B – Person(s) or Organization(s) Authorized to Receive Information

Please complete this section with the person(s) or organization(s) you are authorizing to receive information about the person named in Part A.

Name: _____

Street Address: _____

City, State, Zip: _____

Name: _____

Street Address: _____

City, State, Zip: _____

Possibility of Re-disclosure: It is possible that the person or organization you have named to receive this information may re-disclose the information and, if so, the information may no longer be protected by the federal privacy rules of the Health Insurance Portability and Accountability Act of 1996.

Part C – Information to be Released

The New York State Department of Civil Service - Employee Benefits Division (EBD) maintains information regarding eligibility for and enrollment in the New York State Health Insurance Program (NYSHIP) and the New York State Public Employee and Retiree Long Term Care Insurance Program (NYPERL). This information includes, but is not necessarily limited to, names and identification numbers of all covered persons; health plan option (i.e. Empire Plan or the specific HMO in which you are enrolled); date of birth; address; premium and payment information; and employment information for purposes of determining eligibility. We do not maintain claims information or medical records.

____ I authorize the release of information maintained by EBD as described above.

____ I authorize the release of information maintained by EBD as described above, with the following limitations: *(Please describe)*

_____

_____

_____

Part D – Purpose of Disclosure

You must check one of the following to indicate a purpose for this release of information:

____ Per my request

____ To permit a family member or friend to act on my behalf

____ Other _____

Part E – Expiration of Authorization

This authorization will remain in effect for twelve (12) months from the date of your signature unless another date or event that will cause the authorization to expire is specified below:

____ When I am no longer enrolled in the New York State Health Insurance Program (NYSHIP) or the New York State Public Employee and Retiree Long Term Care Program (NYPERL)

____ On ____ / ____ / _____

____ When the following event occurs: _____

Terms for Termination/Revocation: You have the right to revoke this authorization at any time. However, your revocation will not affect any use or disclosure that we made in reliance upon your authorization before we learn of your revocation. You may revoke this authorization by writing to the NYSHIP/NYPERL Privacy Official at the address provided below.

Part F – Required Signature

I authorize release of the above-specified information. I understand that I am not required to sign this form in order to receive or to be eligible to receive health care benefits (enrollment, treatment, or payment).

_____ _____
Signature **Date**

_____ _____
Identification # **Telephone #**

If the person signing this form is not the individual whose information is being disclosed, please indicate your relationship to that person:

_____ Parent or legal guardian of a child under the age of 18

_____ Personal Representative **(please attach documentation, i.e., Power of Attorney, Court Order, Health Care Proxy)**

Mail this form to the following address:

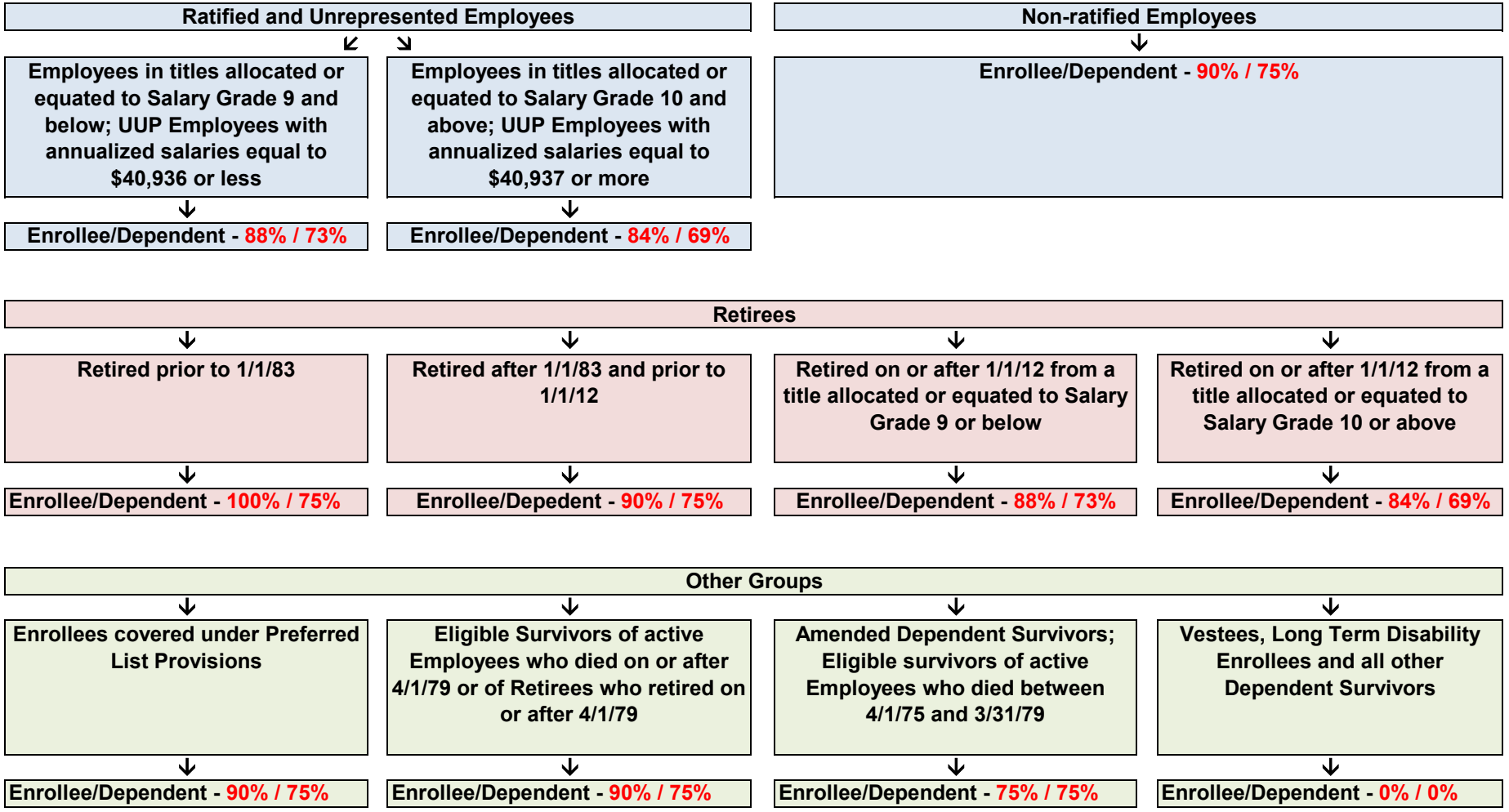
NYS Department of Civil Service – Employee Benefits Division
Albany, NY 12239

PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

Personal Privacy Protection Law Notification: The information you provide on this form is requested for the principal purpose of authorizing the use and/or disclosure of protected health information pursuant to 45 CFR 164.508. Failure to provide the information may interfere with our ability to use or disclose protected health information necessary to administer NYSHIP and NYPERL. The information will be maintained by the Director of the Employee Benefits Division, Department of Civil Service, Albany, NY 12239. The information will be used in accordance with Public Officers Law section 96(1), also known as the Personal Privacy Protection Law. For information on the Personal Privacy Protection Law, call (518) 457-9375. If you have any questions regarding this form or your insurance coverage, please call (518) 457-5754 or 1-800-833-4344 between the hours of 9:00 a.m. and 3:00 p.m. Monday through Friday.

Exhibit II.I

Employer Premium Contribution Rates



State of New York
Department of Civil Service
Albany, NY 12239

EMPLOYEE BENEFITS DIVISION

Statement of Disability

Dependent 19 Years of Age or Older

PS-451 (4/10)

PART A (*To Be Completed By Enrollee. Keep a copy of the completed form for your records.*)

Enrollee's Name *(Print)*	Health Insurance ID Number	Enrollee's Phone Number

Home Address *(No. and Street)*	City	State	Zip Code

I request continuation of NYSHIP coverage for the below named Dependent, who is disabled **and** incapable of self-support. * If the child is not my own, legally adopted (including a child in a waiting period prior to finalization of adoption) or dependent stepchild, I have completed and submitted a PS-*457 Statement of Dependence* with the requested documentation to my Agency Health Benefits Administrator.

Dependent Information Relationship (check one): ☐ Son ☐ Daughter ☐ Other Child*

Dependent's Name	Dependent's Social Security Number	Dependent's Date of Birth

Is Dependent presently employed? ☐ Yes ☐ No Is yes, explain:	Is Dependent married? ☐ Yes ☐ No	Percent of support provided by enrollee: _____ %

Is disabled dependent enrolled in Medicare A & B? ☐ Yes ☐ No If yes, provide copy of dependent's Medicare Card.

☐ Check if Dependent is permanently residing in your household and residence began prior to the age coverage would terminate. If otherwise, explain:

Personal Privacy Protection Law Notification

The information you provide on this application is requested for the principal purpose of enabling the NYS Department of Civil Service to process your request to continue enrollment for a disabled dependent 19 years of age or older in the New York State Health Insurance Program, Dental Program, Vision Program, and/ or other employee benefit fund program. The information will be used in accordance with Section 96 (1) of the Public Officers Law, also known as the Personal Privacy Protection Law. Failure to provide the information requested may prevent the Department from processing this application. This information will be maintained by the Director, Division of Employee Benefits, NYS Department of Civil Service, Albany, NY 12239. For information about the Personal Privacy Protection Law, call (518) 457-9375. For information about NYSHIP Eligibility for Disabled Dependents, contact your Agency Health Benefits Administrator. If after calling your Health Benefits Administrator you need more information, please call (518) 457-5754 or 1-800-833-4344 between the hours of 9:00 a.m. and 3:00 p.m.

HIPAA Privacy Authorization to Release Protected Health Information

By my signature below, I authorize the attending physician to provide my insurance carrier or health maintenance organization (HMO) with health information (to be indicated in Part D of this form) regarding the mental or physical disability of my dependent for whom I am requesting NYSHIP coverage. I also authorize the insurance carrier or HMO to disclose its determination (to be indicated in Part C of this form) to the Department of Civil Service. The purpose of these disclosures is to determine my dependent's eligibility for NYSHIP coverage and to implement that determination. I understand that I may revoke this authorization in writing at any time, as described in the NYSHIP Notice of Privacy Practices. Unless I revoke this authorization, this authorization will expire after my dependent's eligibility for coverage has been determined and implemented by the Department of Civil Service in its administration of the NYSHIP health plans. I understand that information disclosed pursuant to this authorization may be subject to redisclosure and no longer be protected by HIPAA.

Enrollee's Signature	**Date**

PART B *(To Be Completed By Employing Agency)*

PLEASE PRINT OR TYPE

Effective Date Of Insurance For Dependent Above.	Previous Statement Submitted? ☐ Yes ☐ No	Was Dependent A Late Enrollment? ☐ Yes ☐ No

Enrollee's Health Insurance Coverage: ☐ Individual ☐ Family	Health Insurance Option ☐ Empire Plan ☐ HMO (write option and name) _____

Employing Agency	Agency Code	HBA Phone Number

I have reviewed the dependent information and have verified that the Dependent meets the eligibility requirements of the Program.

Authorized Signature	**Date**

PART C ***(To Be Completed By UnitedHealthcare or the Health Maintenance Organization)***

☐ Permanently Disabled	☐ Temporarily Disabled Through (Supply Date)	☐ Not Disabled	☐ Date Disability Started (Supply Date)
Signature			**Date**

PART D ***(To Be Completed By Attending Physician and mailed by the enrollee or attending physician to the appropriate carrier)***

Empire Plan Enrollees Mail To:
UnitedHealthcare
PO Box 1600
Kingston, New York 12402-1600

HMO Enrollees Mail To:

Mail this form directly to your HMO.

Physician's Name *(Print)* M.D.	**Physician's Address**
Enrollee's Name *(Print)*	Health Insurance ID Number
Dependent's Name *(Print)*	
Is this Dependent incapable of self-support by reason of physical or mental health disability? ☐ Yes ☐ No	

Date dependent became incapable of self-support.	Estimated duration of disability.	Date of your most recent examination of this patient.

Complete description of medical condition, including diagnosis, prognosis, current status and service being received:

If more space is necessary, attach additional pages.

PLEASE NOTE: Unless all questions are answered completely, a determination cannot be made.

Physician's Signature	**Date**

State of New York
Department of Civil Service
Albany, NY 12239

EMPLOYEE BENEFITS DIVISION

Statement of Disability

Dependent 19 Years of Age or Older

PS-451I (4/10)

Health insurance benefits in the New York State Health Insurance Program (NYSHIP) are available for an enrollee's unmarried dependent children age 19 or older who are incapable of supporting themselves because of a mental or physical disability acquired before termination of their eligibility for health insurance, as described below.

Health insurance benefits in the New York State Heath Insurance Program (NYSHIP) are available for an enrollee's dependent children as described under the following circumstances:

1. The enrollee's own, legally adopted (including children in a waiting period prior to finalization of adoption) and dependent stepchildren under age 19;

2. The enrollee's "other" dependent children who reside permanently with the enrollee *and* receive more than 50 percent of their support from the enrollee, including medical expenses under age 19, **You must also complete a PS-457 Statement of Dependence to establish "other" dependent children's eligibility for NYSHIP**;

3. The enrollee's dependent child who is covered as a full-time student between the ages of 19 and 25. Up to four years may be deducted from the dependent student's age for documented service in a branch of the US Military.

Any expenses incurred for the attending physician's statement on the PS-451 Statement of Disability are the responsibility of the enrollee or dependent and are not considered a covered medical expense. See your General Information Booklet for additional information and for whom to contact, if you have questions.

Approval for enrollment in NYSHIP is contingent upon continuance of the enrollee's Family Coverage under the New York State Health Insurance Program. The employing agency or the Employee Benefits Division will notify the enrollee of the coverage determination.

Note: The employing agency for retirees, vestees, dependent survivors, enrollees covered under Preferred List provisions and COBRA enrollees of New York State Government and Participating Employers is the Employee Benefits Division of the Department of Civil Service. For enrollees either currently or formerly employed by a Participating Agency, that agency is the employing agency, regardless of the enrollee's status.

INSTRUCTIONS FOR COMPLETING THE PS-451 STATEMENT OF DISABILITY

1. **Enrollee** completes **Part A**.
2. **Employing Agency** completes **Part B**, (Parts A and B must be completed before any other parts of the form are completed to ensure confidentiality of the Dependent's medical information).
3. Leave **Part C blank** (see step 6)
4. **Attending Physician** completes **Part D** (attending physician cannot complete this section until Parts A and B are complete).
5. **Enrollee** or **Attending Physician** mails the completed form to the appropriate carrier:

Empire Plan Enrollees Mail To:	**HMO Enrollees Mail To:**
UnitedHealthcare PO Box 1600 Kingston, New York 12402-1600	Mail this form directly to your HMO.

6. If mental health specialist input is required for an Empire Plan enrollee, UnitedHealthCare may forward the PS-451 to OptumHealth. United HealthCare, the HMO or OptumHealth completes **Part C** and mails only Page 1 of the PS-451 to the Employee Benefits Division at the above address.

STATE OF NEW YORK
DEPARTMENT OF CIVIL SERVICE
ALBANY, NEW YORK 12239

EMPLOYEE BENEFITS DIVISION
STATEMENT OF DEPENDENCE
FOR PARTICIPATION IN THE HEALTH INSURANCE PROGRAM

INSTRUCTIONS: This form must be completed when an enrollee applies for coverage on behalf of a dependent child who is other than the enrollee's own child, adopted or dependent stepchild, or the child of the enrollee's Domestic Partner. For such a dependent to be eligible, the child must, among other things, (1) reside permanently in the enrollee's home and (2) receive more than 50 percent of support from the enrollee, including medical expenses. Support by you as described in 1) and 2) above must have commenced before the child reached age 19. If you have a dependent who meets these criteria, please complete this form and submit proof of support.

Please read carefully, respond accurately and initial your response to each of the following questions. If you have questions, contact your agency Health Benefits Administrator.

Part A – ENROLLEE'S STATEMENT

Enrollee's Name	**Health Insurance Identification Number**

Enrollee's Address No. and Street	**City**	**State**	**Zip Code**

Enrollee's Agency (if on the payroll)	**Telephone** **Work** ( ) **Home** ( )

Dependent's Name	**Dependent's Birth Date**

1. What relationship is the dependent to you? _____
2. Who has legal custody of this dependent? _____
3. Check one: Acting in place of the parent ("*in loco parentis")* for this dependent, I ☐ have ☐ have not assumed responsibility for medical expenses for the above named dependent until the child is age 19 or otherwise no longer eligible for enrollment in the New York State Health Insurance Program.
4. What percent of the dependent's support do you provide? _____

   Please supply documentation of this support: for example, papers indicating legal guardianship or a copy of your Federal tax return listing the individual as a dependent. If you do not claim the dependent on a tax return, we will accept a letter from a CPA or an attorney that the dependent could be claimed on your tax return under current IRS regulations if you chose to do so.

5. Is your home the permanent legal residence of this dependent? ☐ Yes ☐ No

   Explain _____

6. How long do you anticipate such legal residence will continue? _____

   Be specific; duration of residence if categorized as "indefinite" or "unknown" is not qualifying.

The State may request such proof of support and/or residency that may be satisfactory to it.

PERSONAL PRIVACY PROTECTION LAW NOTIFICATION

The information you provide on this application is being requested in accordance with Article 11 of the Civil Service law for the principal purpose of enabling the Department of Civil Service to enroll a dependent child to the New York State Health Insurance Program (NYSHIP). This information will be used in accordance with Section 96 (1) of the Personal Privacy Protection Law, particularly subdivisions (b), (e) and (f). Failure to provide the information requested may result in the disapproval of your application. This information will be maintained by the Director, Employee Benefits Division, Department of Civil Service, Albany, NY 12239. For further information relating *only* to the Personal Privacy Protection Law call (518) 457-9375. If you have a question regarding this form or the health insurance coverage, please call (518) 457-5754 or 1-800-833-4344 between the hours of 9:00 a.m. and 3:00 p.m.

This information must be true and accurate, pursuant to the following:

Section 1035 of Title 18 of the United States Code:

(a) Whoever, in any matter involving a health care benefit program, knowingly and willfully – (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or (2) makes any materially false, fictitious, or fraudulent statement or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 5 years, or both.

Section 86.4 of title 11 of the New York Compilation of Rules and Regulations:

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.

Section 176.05 of the Penal Law:

A fraudulent insurance act is committed by any person who, knowingly and with intent to defraud presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, self insurer, or purported insurer, or purported self insurer, or any agent thereof, any written statement as part of, or in support of, an application of the issuance of, or the rating of a commercial insurance policy, or certificate or evidence of self insurance for commercial insurance or commercial self insurance, or a claim for payment or other benefit pursuant to an insurance policy or self insurance program for commercial or personal insurance which he knows to: (i) contain materially false information concerning any fact material thereto; or (ii) conceal, for the purpose of misleading, information concerning any fact material thereto.

Date	**Enrollee's Signature**

Sworn to before me this

Day of _____

_____
Notary Public

Part B-FOR OFFICE USE ONLY

☐ Approved

☐ Disapproved

Date Transaction submitted to add Dependent (if necessary) _____

Date

Signature of Health Benefit Administrator

THIS FORM MUST BE RETAINED BY THE EMPLOYING AGENCY WITH THE ENROLLEE'S ENROLLMENT RECORDS.

Exhibit II.L
SAMPLE provided for illustration

Certificate/Group Contract/Rider and/or Amendment Summary

Note: Include both Commercial HMO and Medicare Advantage Plan documents

Document Name	**Document Number**	**Status** ***Approved-Final/Pending/Draft***	**Applicable Plan** ***Commercial HMO/Medicare Advantage***	**Brief Summary of Purpose**
Group HMO Certificate of Coverage	HMO12334R (4/2013)	Approved-Final	Commercial HMO	Base Contract
NYSHIP Eligibility Rider	NYSHIP-E 12345	Pending DFS Approval	Commercial HMO and Medicare Advantage	NYSHIP Eligibility
Chiropractic Coverage Rider	Chiro122	Approved-Final	Commercial HMO	Adds chiropractic coverage to base contract
MA Evidence of Coverage	MAEOC 2015	Draft	Medicare Advantage	CMS required description of services and benefits

Schedule I

HMO Name (NYSHIP Option # XXX)
New York State Health Insurance Program
January 1, 20YY Rate Calculation

	With Drugs		Without Drugs	
	Individual	**Family**	**Individual**	**Family**
Community Rates				
a. Basic Contract (Basic Contract Identification #)	500.00	1,100.00	500.00	1,100.00
Add. Riders				
b. Drug Rider (Drug Rider #)	120.00	260.00		
Total Drug Coverage	120.00	260.00		
c. Additional Riders (Total from Schedule II)	25.00	50.00	25.00	50.00
1. Unadjusted Community Rates	**645.00**	**1,410.00**	**525.00**	**1,150.00**
Adjustments For:				
2. Medicare Contracts (Total from Schedule III)	(55.68)	(121.72)	(45.32)	(99.28)
3. Prior Rate Period (Total from Schedule I-PPA)	2.13	3.60	1.72	2.82
4. NYSHIP Monthly Rates	**$591.45**	**$1,291.88**	**$481.40**	**$1,053.54**
NYSHIP Bi-Weekly Rates (Monthly Rate x 12 x 14/365)	**$272.23**	**$594.62**	**$221.58**	**$484.92**

Note: Biweekly Rates during Leap Years are based on 366 days; the formula is:
Monthly Rate x 12 x 14/266

Note: $ Amounts are for illustrative purposes only

Schedule II

HMO Name (NYSHIP Option # XXX)
New York State Health Insurance Program
January 1, 20YY Rate Calculation

Rider Benefit Description	Identification Number	With Drugs		Without Drugs	
		Individual	**Family**	**Individual**	**Family**
Benefit A	XXXX	10.00	20.00	10.00	20.00
Benefit B	XXXX	5.00	10.00	5.00	10.00
Benefit C	XXXX	5.00	10.00	5.00	10.00
Benefit D	XXXX	5.00	10.00	5.00	10.00
Total (Carryforward to Schedule I, line c.)		**$25.00**	**$50.00**	**$25.00**	**$50.00**

Note: $ Amounts are for illustrative purposes only

Exhibit II.M

Schedule III

HMO Name (NYSHIP Option # XXX)
New York State Health Insurance Program
January 1, 20YY Rate Calculation
Schedule of Medicare Adjustment

Community Rates	With Drugs		Without Drugs	
	Individual	**Family**	**Individual**	**Family**
1. Unadjusted Community Rates	645.00	1,410.00	525.00	1,150.00
2. Medicare Rate (A)	330.00		160.00	
3. Difference (2 - 1)	(315.00)	(1,410.00)	(365.00)	(1,150.00)
4. Medicare Enrollments	1,500		15	
5. Estimated Monthly Adj. (3x4)	(472,500.00)	0.00	(5,475.00)	0.00
6. Total Monthly Adjustment (Sum of line 5)	(477,975.00)			

WEIGHED AVERAGE METHOD - Both Drug Eligible and Non Drug Eligible Enrollees must be used for the computation of the Medicare Adjustment.

7. Unadjusted Community Rates	645.00	1,410.00	525.00	1,150.00
8. Enrollment	2,000	3,000	10	10
9. Product (7 x 8)	1,290,000.00	4,230,000.00	5,250.00	11,500.00
10. Total of line 9	5,536,750.00			
11. Ratio to Total (9/10)	0.232988667	0.763986093	0.000948210	0.002077031
12. Distribution of Medicare Credit by Group (6 x 11)	**(111,362.76)**	**(365,166.25)**	**(453.22)**	**(992.77)**
13. Monthly Adjustment (12/8) - Carried Forward to Schedule I, line 2.	**($55.68)**	**($121.72)**	**($45.32)**	**($99.28)**

Medicare Cost Components

Medicare Non-RX Coverage Rate	170.00
Medicare Rx Rate	160.00
Total	330.00

Note: $ Amounts are for illustrative purposes only

Exhibit II.M

Schedule I-PPA

HMO Name (NYSHIP Option # XXX)
New York State Health Insurance Program
January 1, 20YY Rate Calculation
Prior Period Rate Adjustment

Adjustment Period: January 1, 20XX - December 31, 20XX (i.e, the year prior to the Sched I, II & III rate year)

	With Drugs		Without Drugs	
NYS Department of Financial Services **Approved Community Rates**	**Individual**	**Family**	**Individual**	**Family**
a. Basic Contract (Basic Contract Identification #)	490.00	1,080.00	490.00	1,080.00
Add. Riders				
b. Drug Rider (Drug Rider #)	110.00	240.00		
Total Drug Coverage	110.00	240.00		
c. Additional Riders (Total from Schedule II)	23.00	46.00	23.00	46.00
1. Unadjusted Community Rates	**623.00**	**1,366.00**	**513.00**	**1,126.00**
Adjustments For:				
2. Medicare Contracts (total from schedule III-PPA)	(54.32)	(119.10)	(44.73)	(98.18)
3. Prior Rate Period Adj (per 20XX rate wksht: Sched I, Line 3)	(3.80)	(9.80)	(3.05)	(8.45)
4. Adjusted Community Rates (1+2+3) = 4	**$564.88**	**$1,237.10**	**$465.22**	**$1,019.37**
5. **20XX NYSHIP Monthly Rates** (per 20XX rate wksht: Sched I, Line 4)	**$562.75**	**$1,233.50**	**$463.50**	**$1,016.55**
Net Monthly Difference (4-5)	2.13	3.60	1.72	2.82
x 20XX Adjustment Months *	12.00	12.00	12.00	12.00
Premium Adjustment to Prorate	25.56	43.20	20.64	33.84
Divide by 20XX Months (12)	12.00	12.00	12.00	12.00
Monthly Adjustment - Carried Forward To Schedule I, line 3.	$2.13	$3.60	$1.72	$2.82

* Contract Months (Enrollment x Months) is used when rate change was mid-year.

Note: $ Amounts are for illustrative purposes only

Note: The Line 3b amounts will equal the amounts listed on Line 3 of Schedule I of the prior year rate submission.

Note: The Line 5 amounts will equal the maounts listed on Line 4 of Schedule I of the prior year rate submission.

Schedule II - PPA

HMO Name (NYSHIP Option # XXX)
New York State Health Insurance Program
January 1, 20YY Rate Calculation
Prior Period Rate Adjustment - Schedule of Riders

Adjustment Period: January 1, 20XX - December 31, 20XX (i.e, the year prior to the Sched I, II & III rate year)

		With Drugs		Without Drugs	
Rider Benefit	Identification Number	Individual	Family	Individual	Family
Benefit A	XXXX	9.00	18.00	9.00	18.00
Benefit B	XXXX	5.00	10.00	5.00	10.00
Benefit C	XXXX	4.00	8.00	4.00	8.00
Benefit D	XXXX	5.00	10.00	5.00	10.00
Total (Carryforward to Schedule I-PPA, line c.)		**$23.00**	**$46.00**	**$23.00**	**$46.00**

Note: $ Amounts are for illustrative purposes only

Exhibit II.M

Schedule III - PPA

HMO Name (NYSHIP Option # XXX)
New York State Health Insurance Program
January 1, 20YY Rate Calculation
Prior Rate Adjustment - Schedule of Medicare Adjustment

Adjustment Period: January 1, 20XX - December 31, 20XX (i.e, the year prior to the Sched I, II & III rate year)

	With Drugs		Without Drugs	
Community Rates	**Individual**	**Family**	**Individual**	**Family**
1. Unadjusted Community Rates	623.00	1,366.00	513.00	1,126.00
2. Medicare Rate(A)	315.00		155.00	
3. Difference (2 - 1)	(308.00)	(1,366.00)	(358.00)	(1,126.00)
4. Medicare Enrollments	1,500		15	
5. Estimated Monthly Adj. (3x4)	(462,000.00)	0.00	(5,370.00)	0.00
6. Total Monthly Adjustment (Sum of line 5)	(467,370.00)			

WEIGHED AVERAGE METHOD - Both Drug Eligible and Non Drug Eligible Enrollees must be used for the computation of the Medicare Adjustment.

7. Unadjusted Community Rates	623.00	1,366.00	513.00	1,126.00
8. Enrollment	2,000	3,000	10	10
9. Product (7 x 8)	1,246,000.00	4,098,000.00	5,130.00	11,260.00
10. Total of line 9	5,360,390.00			
11. Ratio to Total (9/10)	0.232445774	0.764496613	0.000957020	0.002100593
12. Distribution of Medicare Credit by Group (6 x 11)	**(108,638.18)**	**(357,302.78)**	**(447.28)**	**(981.75)**
13. Monthly Adjustment (12/8) - Carried Forward to Schedule I-PPA, line 2.	**($54.32)**	**($119.10)**	**($44.73)**	**($98.18)**

Medicare Cost Components

Medicare Non-RX Coverage Rate	160.00
Medicare Rx Rate	155.00
Total	315.00

Note: $ Amounts are for illustrative purposes only

Exhibit II.M.1

New York State Health Insurance Program

Enrollment Summary Worksheet (May 20XX)

(NYSHIP Option # XXX) NYSHIP Option/HMO Name

Total Enrollment

With Drug Coverage		
Individual	2,000	Note: All enrollment/contract count figures are for illustrative purposes only
Family	3,000	
Without Drug Coverage		
Individual	10	
Family	10	

Medicare Enrollment & Contract Counts

	Enrollment*	Medicare Contracts **
With Drug Coverage		
Individual	**800**	800
Family	**400**	700
		1,500 Total Contracts
Without Drug Coverage		
Individual	**8**	8
Family	**4**	7
		15 Total Contracts

* Represents NYSHIP Enrollees who are Medicare Primary (enrolled in Medicare). Use enrollment by coverage when completing Schedules III Medicare Contracts with Multiple Medicare Rates.

** Represents all NYSHIP members (enrollees & dependents) who are Medicare Primary (enrolled in Medicare). Use total contracts when completing Schedules III Medicare Contracts with Single Medicare Rates

Exhibit II.M.2

NEW YORK STATE OF OPPORTUNITY. | Department of Civil Service

ANDREW M. CUOMO
Governor

JERRY BOONE
Commissioner

August 1, 20XX

Mr. John Doe
CEO
ABC HMO
123 Main Street
Any Town, NY 11111

Regarding: NYSHIP Plan XXX

Dear Mr. Doe:

This letter is official notification that the January 1, 20YY premium rate change request for Health Maintenance Organizations participating in the New York State Health Insurance Program (NYSHIP) must be received by the Department of Civil Service (Department) no later than September 1, 20XX so that we may promulgate the rates in advance of the NYSHIP's November 20XX Option Transfer Period. The NYSHIP policies regarding the premium rate basis, rate structure, and required documentation are as follows:

Premium Rate Basis

The basis for premiums shall be the New York State Department of Financial Services (NYSDFS) filed and ultimately approved community rates or guaranteed rates under Title 11 NYCRR Section 52.42(b). The premium rates shall be the filed and approved premium rates, or the contractor's best estimate of the expected filed and approved premium rates for the following year (this would include rates filed and pending review) adjusted by any prospective or retrospective adjustments required for guaranteed premium rates under Title 11 NYCRR Section 52.42(b). The contractor shall provide, along with the rate submission to the Department, an explanation of the basis for the premium rate that has been quoted. A contractor, who covers NYSHIP enrollees in both New York State service areas and non-New York service areas, is required to charge NYSHIP the NYS community rate or rates guaranteed under Title 11 NYCRR 52.42(b) for both In-State and Out-of-State NYSHIP enrollees.

In the event that the premium rates, in effect for NYSHIP during the 20YY Plan Year, are different from the rates filed/approved by the NYSDFS or appropriate regulatory and/or oversight agency in the contractor's jurisdiction, the Department shall adjust the NYSHIP premium paid the contractor to reflect such revision. Such adjustment shall be calculated by the Department to capture excess NYSHIP premium paid by the Department to the contractor if the premium rate paid exceeds the approved premium rate, or the Department shall distribute additional NYSHIP premium due the contractor if the premium rate paid is less than the approved premium rate. The Department may make such adjustment through subsequent year premium rates paid to the contractor, or at its option, adjust the premium rate paid to the contractor during 20YY.

Required Rate Structure

A portion of the NYSHIP enrolled population does not receive prescription drug benefits through NYSHIP. Accordingly, you must submit two premium rate structures; one which includes the cost of the HMO prescription drug benefit and one which excludes such cost.

Attached is a summary of the accepted benefit package. That summary lists the standard benefit contract and each of the riders accepted by the Joint Labor Management Committee (JLMC) along with identifying numbers found on the face of these documents. Please list the cost of each of the applicable riders separately.

Required Documentation

To support the basis of the requested 20YY rates, the following documentation is required:

(1) For Department of Financial Services Rates Filed and Approved

Submit a complete copy (pdf format) of the NYSDFS "Prior Approval Rate Change" application, required under Section 4308C of NYS Insurance Law, along with a printout of the National Association of Insurance Commissioners System for Electronic Rate and Form Filing (SERFF) disposition notice (i.e., electronic notice) indicating NYSDFS approval of the rates submitted. Note: The rates that you intend to be applicable for NYSHIP in 20YY may actually be current rates that have been approved by the NYSDFS for periods prior to 1/1/20YY (example, current rates that have been approved and were effective as of 4/1/20XX, 7/1/20XX or 10/1/20XX). If so, then please identify the rating period and provide all of the above specified documentation relevant to those specific rates.

(2) For Center of Medicare & Medicaid Services (CMS) Filed Rates

Submit a copy of the bid status report provided by the CMS Health Plan Management System (HPMS) documenting that the rates were successfully processed by CMS or a statement attesting that the rates were developed under CMS guidelines and submitted in accordance with CMS regulations.

(3) For Rates Filed and Pending Approval by the Department of Financial Services

For rate requests pending the NYSDFS approval, submit a copy of the SERFF application notice indicating submission of the "Prior Approval Rate Change" application.

(4) For Rates Not Yet Submitted

A representation letter signed by the Chief Executive Officer which states the following:

- The HMO has not yet submitted a request for a rate increase/decrease to the NYSDFS. The HMO intends to file a "Prior Approval Rate Change" application and that the rate change is intended to be effective as of 1/1/20YY.

- The 1/1/20YY rates submitted to the Department are the best estimate of the rates which will be submitted to the NYSDFS.

- The quoted rates are based on the benefits as approved by the JLMC.

Upon final disposition and approval by NYSDFS of the "Prior Approval Rate Change" application, provide the complete "Prior Approval Rate Change" application along with a printout of the NYSDFS SERFF disposition notice (i.e., electronic notice) indicating approval of the rates submitted.

You must complete Schedules I-III and Schedules I-PPA–III-PPA (attached). Schedules III and III-PPA have been updated with the current enrollment and Medicare contract counts. In those instances where there is no current enrollment count, a "1" has been added. These figures must be used in preparing the Medicare adjustment schedule (Schedule III) and (Schedule III-PPA) if applicable.

Please note that we may not yet have received all of the documentation required relative to the 20XX Filed and Approved NYSDFS and 20XX CMS Filed Rates. Please ensure that we receive this documentation from you; the 20XX required rate documentation is equivalent to the corresponding 20YY rate documentation as described in the enumerated paragraphs (1) and (2) on page 2 of this letter. Completion and submission of Schedules I-PPA-III-PPA along with all 20XX rate documentation may precede the entire 20YY rate submission due September 1, 20XX. We will attempt to review and finalize the PPA schedules prior to the rate submission due date. But please note that the PPA schedules – whether already reviewed by and agreed to by the Department or not – are required to be included as part of the entire 20YY rate submission.

As stated in the Health Maintenance Organization Agreement between New York State Department of Civil Service and ABC HMO (NYSHIP Plan XXX), the 20YY premium rate submission is required to be accompanied by the contractor's most recent available current year to date loss ratio for the community pool in which the State enrollees are included.

If your Health Maintenance Organization is requesting a January 1, 20YY rate change, the required documentation as outlined in this letter must be **e-mailed to Paul McKinney at Paul.McKinney@cs.ny.gov** and received by the Department no later than September 1, 20XX. These e-mailed documents should be in respective Word, Excel and PDF format whenever possible. Those HMOs not requesting a January 1, 20YY rate change must also confirm this via e-mail by September 1, 20XX.

Any questions concerning these policies or other financial issues relating to NYSHIP should be directed to Paul McKinney at (518) 402-4739 or Paul.McKinney@cs.ny.gov.

Sincerely,

Ron Kuiken
Assistant Director
Financial Services

Attachments

cc:

Choices Guide Page – General Instructions

Review these general instructions along with the sample *Choices* pages provided.

All plans must include coverage levels and enrollee costs for the following benefits:

Physician Services
Specialist Services
Radiology:
(X-rays, CAT scans, MRIs, ultrasounds)
Lab Tests
Pathology
EKG/EEG
Radiation
Chemotherapy
Pap Tests
Mammograms
Pre and Postnatal Visits
Bone Density Tests
Family Planning Services
Infertility Services
Contraceptive Drugs and Devices
Inpatient Hospital Surgery
Outpatient Surgery
Emergency Room
Urgent Care Facility
Ambulance (must note if airborne ambulance transportation is excluded)
Outpatient Mental Health (Individual and Group)
Inpatient Mental Health
Outpatient Drug/Alcohol Rehabilitation
Inpatient Drug/Alcohol Rehabilitation
Durable Medical Equipment
Prosthetic Devices
Orthotic Devices
Inpatient Rehabilitative Care:
(physical, speech & occupational therapy)
Outpatient Rehabilitative Care:
(physical, speech & occupational therapy)
Diabetic Supplies, Insulin & Oral Agents, Diabetic Shoes
Hospice
Skilled Nursing Facility
Prescription Drugs
Specialty Drugs
Dental
Vision
Hearing Aids
Out of Area Services
Home Health Care

In your electronic submission, you will be asked to specify the associated amount of out-of-pocket expense to the member for each benefit and the basis upon which the expense will be charged. For example: \$/visit; \$/1st - 10th visits then \$/visit thereafter; \$/item; % coinsurance.
If there is no out-of-pocket expense associated with a specific benefit, the appropriate response is "No copayment." If the benefit is not covered, indicate "Not covered."
You will be asked to enter the maximum number of visits, the maximum number of days or the number of days' supply as appropriate.

The description of your prescription drug benefit must include:

- The type of Prescription Drug Formulary employed by your HMO (e.g., Closed or Incented Formulary).

You will be asked to indicate the applicable copayment per prescription and associated number of days for the prescription drug supply for the retail and mail order prescription drug benefit. (The copayment for self-injectable drugs, including fertility drugs, must be the same as the copayment for other covered drugs.) If your HMO has more than a single copayment benefit structure, include additional copayment lines as necessary. For example:

Retail, #-day supply
$$ Tier 1
$$ Tier 2
$$ Tier 3

Mail Order, #-day supply
$$ Tier 1
$$ Tier 2
$$ Tier 3

If your HMO has a web site for member viewing, you will be asked to include the web site address in HMO ePage, the electronic *Choices* Page interface you complete for the proposal.

Two additional pages will be allowed in *Choices* for HMOs that have a Medicare benefit that is substantially different from the benefit for non-Medicare primary individuals. Typically, these additional pages are used for Medicare Advantage products. HMOs that have a Medicare benefit identical to the non-Medicare primary benefit (those HMOs that coordinate coverage with Medicare) will have only two pages for listing benefits.

Sample Choices Pages:

HMO Name/Logo

Benefits	Enrollee Cost
Office Visits	$ per visit
Annual Adult Routine Physicals	$ per visit
Well Child Care	$ per visit
Specialty Office Visits	$ per visit
Diagnostic/Therapeutic Services	
Radiology	$ per visit
Lab Tests	$ per visit
Pathology	$ per visit
EKG/EEG	$ per visit
Radiation	$ per visit
Chemotherapy	$ per visit
Women's Health Care/OB GYN	
Pap Tests	$ per visit
Mammograms	$ per visit
Prenatal Visits	$ per visit
Postnatal Visits	$ per visit
Bone Density Tests	$ per visit
Family Planning Services	$ per visit
Infertility Services	$ per visit
Contraceptive Drugs	Applicable Rx copayment
Contraceptive Devices	Applicable Rx copayment
Inpatient Hospital Surgery	$ copayment
Outpatient Surgery	
Hospital	$ copayment
Physician's Office	$ copayment
Outpatient Surgery Facility	$copayment
Emergency Room	$ per visit
Urgent Care Facility	$ per visit
Ambulance	$ per trip
Outpatient Mental Health	
Individual	$ per visit
Group	$ per visit
Inpatient Mental Health max # days	No copayment

Benefits	Enrollee Cost
Outpatient Drug/Alcohol Rehab	
max # visits	$ per visit
Inpatient Drug/Alcohol Rehab	
max # days each	No copayment
Durable Medical Equipment	$ per item
Prosthetics	$ per item
Orthotics	$ per item
Rehabilitative Care, Physical, Speech and Occupational Therapy	
Inpatient, max # days	No copayment
Outpatient, max # visits	$ per visit
Outpatient Speech Therapy	max # days
Diabetic Supplies	
Insulin and Oral Agents	$ per item
Diabetic Shoes, max # pairs	$ per pair
Hospice, max # days	No copayment
Skilled Nursing Facility	
max # days	No copayment
Prescription Drugs	
Retail, 30-day supply $ generic/$ formulary brand /$non-formulary	
Mail Order, 90-day supply $ generic/$ formulary brand/$ non-formulary	
Coverage includes fertility drugs, injectable/self injectable medications and enteral formulas.	
Specialty Drugs (Describe how drugs are obtained, including copayment/coinsurance amounts, coverage limits, exclusions, etc.)	

Sample Choices Pages:

Additional Benefits	Enrollee Cost
Annual Out-of-Pocket Maximum (In-Network Benefits)	per Individual per Family per year
Dental	$ per visit
Vision	$ per visit
Hearing Aids	$
Out of Area Describe coverage available to enrollees while traveling outside the HMO service area.	
HMO may also list other benefits not covered by the minimum benefit requirements. Examples: Wellness Services, Smoking Cessation	
Plan Highlights for 2016 (General marketing language or new highlights)	
Participating Physicians (Descriptive text)	
Affiliated Hospitals (Descriptive text – refer enrollees to customer services number if volume of hospitals is too extensive to list.)	
Pharmacies and Prescriptions (Descriptive text – include **Incented Formulary** or **Closed Formulary)**	
Medicare Coverage (Descriptive text – include **Medicare Advantage Plan** or **Coordinates Coverage with Medicare** as appropriate.)	

NYSHIP CODE NUMBER
(To be determined for new HMOs only).

A (model type) HMO serving
Individuals living or working in (HMO Service Area as approved by the Joint Labor Management Committees on Health Benefits).

HMO Name
HMO Address

For Information:
Customer Service: 800-XXX-XXXX
TTY: 800-XXX-XXXX
Web site: www.hmoname.com

Note: You will have approximately 3,000 characters to describe all benefits on this second page, not including the NYSHIP Code number section (See blue box above. The text in this box does not count toward the 3,000-character limit).
You may elaborate on the sections you choose, but bear in mind that there is an overall character limit.

Exhibit III.B.1

HMO BENEFITS FOR 2016 -- Commercial Plan

Covered Service	HMO Benefits	Source Document: Enter Article, Section, etc. and Page Number of Contract/ Certificate of Coverage (COC), Rider Number		NYS DFS Status: Approved (include date) or Filed/ Pending	Member Cost: Enter copay/coinsurance amount, e.g., $25/visit, 20% coinsurance	Benefit Limitations: e.g., 20 visits/calendar year, 60 consecutive days Indicate "unlimited" if no limitations	Change from 2015 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2016	
		Contract/ COC	Rider Number					Individual	Family
Office Visit	Covered as required by Federal and NYS law and/or regulation								
Speciality Office Visit	Covered as required by Federal and NYS law and/or regulation								
Chiropractic Care	Covered as required by Federal and NYS law and/or regulation								
Inpatient Hospital Care	Covered as required by Federal and NYS law and/or regulation, not subject to deductibles, copays or coinsurance								
Surgery (include all settings - Physician-Inpatient , Physician-Outpatient (at a hospital, facility or surgery center), Physician's Office, Outpatient Surgery Facility									
Skilled Nursing Facilities									
Hospice Benefits	210 Days								
Emergency Room	Covered as required by ACA								
Urgent Care Facility									
Ambulance indicate both Non-airborne & Airborne									
Diagnostic/Therapeutic Services: Cite both Hospital and Medical/Surgival Settings									
Radiology	Covered as required by Federal and NYS law and/or regulation								
Lab Tests	Covered as required by Federal and NYS law and/or regulation								

Exhibit III.B.1

HMO BENEFITS FOR 2016 -- Commercial Plan

Covered Service	HMO Benefits	Source Document: Enter Article, Section, etc. and Page Number of Contract/ Certificate of Coverage (COC), Rider Number		NYS DFS Status: Approved (include date) or Filed/ Pending	Member Cost: Enter copay/coinsurance amount, e.g., $25/visit, 20% coinsurance	Benefit Limitations: e.g., 20 visits/calendar year, 60 consecutive days Indicate "unlimited" if no limitations	Change from 2015 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2016	
		Contract/ COC	Rider Number					Individual	Family
Pathology	Covered as required by Federal and NYS law and/or regulation								
EKG/EEG	Covered as required by Federal and NYS law and/or regulation								
Radiation/ Chemotherapy	Covered as required by Federal and NYS law and/or regulation								
Preventive Services									
All Members - including but not limited to: annual wellness visit/ physical, standard immunizations (recommended by ACIP), colonoscopy, screening for STDs, HIV. Alcohol/ substance abuse,tobacco use, cholesterol, diabetes and high blood pressure	Covered as required by Federal and NYS law and/or regulation								
Women's Health - including but not limited to: mammograms, bone density, pap tests, anemia, iron deficiency, etc. for pregnant women	Covered as required by Federal and NYS law and/or regulation								
Men's Health - including but not limited to: prostate cancer screening, abdominal aoric aneurysm screening	Covered as required by Federal and NYS law and/or regulation								

Exhibit III.B.1

HMO BENEFITS FOR 2016 -- Commercial Plan

Covered Service	HMO Benefits	Source Document: Enter Article, Section, etc. and Page Number of Contract/ Certificate of Coverage (COC), Rider Number		NYS DFS Status: Approved (include date) or Filed/ Pending	Member Cost: Enter copay/coinsurance amount, e.g., $25/visit, 20% coinsurance	Benefit Limitations: e.g., 20 visits/calendar year, 60 consecutive days Indicate "unlimited" if no limitations	Change from 2015 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2016	
		Contract/ COC	Rider Number					Individual	Family
Children's Health - including but not limited to: certain newborn screenings, metabolic screenings, vision, autism, lead and TB screenings, obesity counseling	Covered as required by Federal and NYS law and/or regulation								
Women's Health Care/OB GYN									
Pre- and Post Natal Visits	Covered as required by Federal and NYS law and/or regulation								
Family Planning	Routine examinations; laboratory tests; birth control counseling; pregnancy testing; genetic counseling								
Infertility Services	Covered as required by Federak abd NYS law and/or regulation and the infertility mandates of 2002								
Contraceptive Drugs and Devices	Covered as required by ACA and NYS law and/or regulation whichever provides the higher level of benefit								
Rehabilitative Care, Physical, Speech & Occupational Therapy									
Inpatient Rehabilitative Care									
Outpatient Rehabilitative Care									

Exhibit III.B.1

HMO BENEFITS FOR 2016 -- Commercial Plan

Covered Service	HMO Benefits	Source Document: Enter Article, Section, etc. and Page Number of Contract/ Certificate of Coverage (COC), Rider Number		NYS DFS Status: Approved (include date) or Filed/ Pending	Member Cost: Enter copay/coinsurance amount, e.g., $25/visit, 20% coinsurance	Benefit Limitations: e.g., 20 visits/calendar year, 60 consecutive days Indicate "unlimited" if no limitations	Change from 2015 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2016	
		Contract/ COC	Rider Number					Individual	Family
Mental Health/Substance Abuse									
Outpatient Mental Health	Covered as required by Federal and NYS laws and/or regulation								
Inpatient Mental Health	Covered as required by Federal and NYS laws and/or regulation								
Coverage for Autism Spectrum Disorder	In compliance with NYS Autism legislation including Habilitative Services, Applied Behavior Analysis (ABA)								
Alcohol and Substance Abuse Detoxification	Covered as required by Federal and NYS laws and/or regulation								
Outpatient Alcoholism and Substance Abuse Rehabilitation	Covered as required by Federal and NYS laws and/or regulation								
Inpatient Alcoholism and Substance Abuse Rehabilitation	Covered as required by Federal and NYS laws and/or regulation.								
Prescription Drugs: *Medically necessary federal legend and state restricted drugs, compounded medications and injectable insulin. Coverage must include contraceptive drugs and devices, fertility drugs and enteral formulas. (The copayment for injectable drugs, including fertility drugs, must be the same as the copayment for other covered drugs except drugs limited to 30 days supply at dispensing.) No annual or lifetime maximum permitted.*									
Prescription Drugs									
Other									
Diabetic Supplies	Covered as required by Federal and NYS law and/or regulation								
Oral Agents and Insulin	Covered as required by Federal and NYS law and/or regulation								

Exhibit III.B.1

HMO BENEFITS FOR 2016 -- Commercial Plan

Covered Service	HMO Benefits	Source Document: Enter Article, Section, etc. and Page Number of Contract/ Certificate of Coverage (COC), Rider Number		NYS DFS Status: Approved (include date) or Filed/ Pending	Member Cost: Enter copay/coinsurance amount, e.g., $25/visit, 20% coinsurance	Benefit Limitations: e.g., 20 visits/calendar year, 60 consecutive days Indicate "unlimited" if no limitations	Change from 2015 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2016	
		Contract/ COC	Rider Number					Individual	Family
Diabetic Shoes									
Durable Medical Equipment (DME)	Medically necessary DME which can with- stand repeated use & primarily used to serve a medical purpose must be covered. Examples include but not limited to: wheelchairs, walkers, respiratory equip, oxygen supplies, replacements, repairs & maintenance, not provided for under manufacturer's warranty or purchase agreement must be covered when functionally necessary.								
Prosthetic Devices	Medically necessary prosthetic devices that aid body functioning or replace a limb or body part in order to correct a defect of body form or function must be covered. Examples of prosthetic devices include but are not limited to: artificial limbs, pacemakers, heart valve replace- ments, artificial joints, external breast prostheses & Ostomy Supplies. Replacements, repairs and maintenance, not provided for under manufacturer's warranty or purchase agreement must be covered when functionally necessary								

Exhibit III.B.1

HMO BENEFITS FOR 2016 -- Commercial Plan

Covered Service	HMO Benefits	Source Document: Enter Article, Section, etc. and Page Number of Contract/ Certificate of Coverage (COC), Rider Number		NYS DFS Status: Approved (include date) or Filed/ Pending	Member Cost: Enter copay/coinsurance amount, e.g., $25/visit, 20% coinsurance	Benefit Limitations: e.g., 20 visits/calendar year, 60 consecutive days Indicate "unlimited" if no limitations	Change from 2015 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2016	
		Contract/ COC	Rider Number					Individual	Family
Orthotic Devices	Medically Necessary custom-made orthotic devices used to support, align, prevent or correct deformities or to improve the function of the foot must be covered. Orthopedic shoes and other supportive devices for treatment of weak, strained, flat, unstable or unbalanced feet should not be included for coverage. Replacements, repairs and maintenance, not provided for under a manufacturer's warranty or purchase agreement, must be covered when functionally necessary.								
Additional Benefits									

Exhibit III.B.2

HMO BENEFITS FOR 2016-- Medicare Advantage Plan

Covered Service	HMO Medicare Advantage Benefits (coverage as required by CMS and/or NYS laws and/or regulations)	Source Document: Enter Article, Section, etc. and Page Number of Evidence of Coverage (EOC), Rider Number		NYS DFS Status: Approved (include date) or Filed/ Pending	Member Cost: Enter copay/ coinsurance amount, e.g., $25/visit, 20% coinsurance	Benefit Limitations: e.g., 20 visits/ calendar year, 60 consecutive days Indicate "unlimited" if no limitations	Change from 2015 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2016
		EOC	Rider					Individual
Office Visit								
Speciality Office Visit								
Chiropractic Care								
Inpatient Hospital Care	Not subject to deductibles, copays or coinsurance							
Surgery (include all settings - Physician-Inpatient , Physician-Outpatient (at a hospital, facility or surgery center), Physician's Office, Outpatient Surgery Facility								
Skilled Nursing Facilities								
Hospice Benefits								
Emergency Room								
Urgent Care Facility								
Ambulance indicate both Non-airborne & Airborne								
Diagnostic/Therapeutic Services: Cite both Hospital and Medical/Surgival Settings								
Radiology								
Lab Tests								
Pathology								

Exhibit III.B.2

HMO BENEFITS FOR 2016-- Medicare Advantage Plan

Covered Service	HMO Medicare Advantage Benefits (coverage as required by CMS and/or NYS laws and/or regulations)	Source Document: Enter Article, Section, etc. and Page Number of Evidence of Coverage (EOC), Rider Number		NYS DFS Status: Approved (include date) or Filed/ Pending	Member Cost: Enter copay/ coinsurance amount, e.g., $25/visit, 20% coinsurance	Benefit Limitations: e.g., 20 visits/ calendar year, 60 consecutive days Indicate "unlimited" if no limitations	Change from 2015 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2016
		EOC	Rider					Individual
EKG/EEG								
Radiation/ Chemotherapy								
Women's Health Care/OB GYN								
Pap Tests								
Mammograms								
Bone Mineral Density Measurements & Tests								
Pre- and Post Natal Visits	Covered as required by Federal and NYS law and/or regulation							
Family Planning	Routine examinations; laboratory tests; birth control counseling; pregnancy testing; genetic counseling							
Infertility Services	Covered as required by Federal and NYS law and/or regulation							
Contraceptive Drugs and Devices								
Rehabilitative Care, Physical, Speech & Occupational Therapy								
Inpatient Rehabilitative Care								
Outpatient Rehabilitative Care								

Exhibit III.B.2

HMO BENEFITS FOR 2016-- Medicare Advantage Plan

Covered Service	HMO Medicare Advantage Benefits (coverage as required by CMS and/or NYS laws and/or regulations)	Source Document: Enter Article, Section, etc. and Page Number of Evidence of Coverage (EOC), Rider Number		NYS DFS Status: Approved (include date) or Filed/ Pending	Member Cost: Enter copay/ coinsurance amount, e.g., $25/visit, 20% coinsurance	Benefit Limitations: e.g., 20 visits/ calendar year, 60 consecutive days Indicate "unlimited" if no limitations	Change from 2015 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2016
		EOC	Rider					Individual
Mental Health/Substance Abuse								
Outpatient Mental Health	Covered as required by Federal and NYS law and/or regulation							
Inpatient Mental Health	Covered as required by Federal and NYS law and/or regulation							
Coverage for Autism Spectrum Disorder	In compliance with NYS Autism legislation including Habilitative Services, Applied Behavior Analysis (ABA)							
Alcohol and Substance Abuse Detoxification	Covered as required by Federal and NYS law and/or regulation							
Outpatient Alcoholism and Substance Abuse Rehabilitation	Covered as required by Federal and NYS law and/or regulation							
Inpatient Alcoholism and Substance Abuse Rehabilitation	Covered as required by Federal and NYS law and/or regulation							
Prescription Drugs: *Medically necessary federal legend and state restricted drugs, compounded medications and injectable insulin. Coverage must include contraceptive drugs and devices, fertility drugs and enteral formulas (The copayment for injectable drugs, including fertility drugs, must be the same as the copayment for other covered drugs except drugs limited to 30 days supply at dispensing.) No annual or lifetime maximum permitted.*								
Prescription Drugs								

Exhibit III.B.2

HMO BENEFITS FOR 2016-- Medicare Advantage Plan

Covered Service	HMO Medicare Advantage Benefits (coverage as required by CMS and/or NYS laws and/or regulations)	Source Document: Enter Article, Section, etc. and Page Number of Evidence of Coverage (EOC), Rider Number		NYS DFS Status: Approved (include date) or Filed/ Pending	Member Cost: Enter copay/ coinsurance amount, e.g., $25/visit, 20% coinsurance	Benefit Limitations: e.g., 20 visits/ calendar year, 60 consecutive days Indicate "unlimited" if no limitations	Change from 2015 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2016
		EOC	Rider					Individual
Other								
Diabetic Supplies								
Oral Agents and Insulin								
Diabetic Shoes								
Durable Medical Equipment (DME)	Medically necessary DME which can with- stand repeated use and primarily used to serve a medical purpose must be covered. Examples include but not limited to: wheelchairs, walkers, respiratory equip, oxygen supplies, replacements, repairs and maintenance, not provided for under a manufacturer's warranty or purchase agreement, must be covered when functionally necessary.							
Prosthetic Devices	Medically necessary prosthetic devices that aid body functioning or replace a limb or body part in order to correct a defect of body form or function must be covered. Examples of prosthetic devices include but are not limited to: artificial limbs, pacemakers, heart valve replacements, artificial joints, external breast prostheses and Ostomy Supplies. Replacements, repairs and maintenance, not provided for under a manufacturer's warranty or purchase agreement, must be covered when functionally necessary.							

Exhibit III.B.2

HMO BENEFITS FOR 2016-- Medicare Advantage Plan

Covered Service	HMO Medicare Advantage Benefits (coverage as required by CMS and/or NYS laws and/or regulations)	Source Document: Enter Article, Section, etc. and Page Number of Evidence of Coverage (EOC), Rider Number		NYS DFS Status: Approved (include date) or Filed/ Pending	Member Cost: Enter copay/ coinsurance amount, e.g., $25/visit, 20% coinsurance	Benefit Limitations: e.g., 20 visits/ calendar year, 60 consecutive days Indicate "unlimited" if no limitations	Change from 2015 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2016
		EOC	Rider					Individual
Orthotic Devices	Medically Necessary custom-made orthotic devices used to support, align, prevent or correct deformities or to improve the function of the foot must be covered. Orthopedic shoes and other supportive devices for treatment of weak, strained, flat, unstable or unbalanced feet should not be included for coverage. Replacements, repairs and maintenance, not provided for under a manufacturer's warranty or purchase agreement, must be covered when functionally necessary.							
Additional Benefits								