EXHIBIT 1

"Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

RELEASE DATE:

June 29, 2020

PROPOSAL DUE DATE:

July 27, 2020

IMPORTANT NOTICE: A Restricted Period under the Procurement Lobbying Law is currently in effect for this Procurement and it will remain in effect until State Comptroller approval of the resultant Contract. During the Restricted Period for this Procurement ALL communications must be directed, in writing, solely to the Designated Contact as listed in Section 2 of these Specifications and shall be in compliance with the Procurement Lobbying Law and the NYS Department of Civil Service "*Rules Governing Conduct of Competitive Procurement Process*" (refer to Specifications, Section 2: Procurement Protocol and Process).

All inquiries, questions, filings and submission of Proposals must be directed in writing to:

New York State Department of Civil Service
Attn: Office of Financial Administration, Floor 17
Agency Building 1, Empire State Plaza
Albany, New York 12239
DCSprocurement@cs.ny.gov

Lola Brabham
Acting Commissioner
NYS Department of Civil Service

James DeWan
Director
Employee Benefits Division

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SECTION 1: INTRODUCTION

1.1 Purpose

The New York State Department of Civil Service (Department or DCS) in consultation with the Joint Labor Management Committee (JLMC), has issued these Specifications to secure the services of qualified Health Maintenance Organizations (HMOs) for participation in the New York State Health Insurance Program (NYSHIP).

The Department expects to award Contracts to multiple qualified HMOs as a result of these Specifications.

These Specifications and other relevant information may be reviewed at https://www.cs.ny.gov/HMO2021/

1.2 Period of Performance

The initial Contract(s), issued as a result of this solicitation, will be for a term of five years beginning January 1, 2021 and ending December 31, 2025, subject to the approval of the New York State Attorney General's Office (AG) and the New York State Office of the State Comptroller (OSC).

For purposes of this Contract, the "Effective Date" is defined as January 1st of the initial year of the Contract.

1.3 Annual Periodic Recruitment of HMOs

The Department reserves the right, in consultation with the JLMC, to evaluate and award contracts to additional HMOs as described herein. Any Contract awarded after January 1, 2021, will commence on the 1st day of January in the subsequent year the contract is awarded or at any time deemed to be in the best interests of the State, and end on December 31, 2025. Such Contracts will be subject to the approval of the Contract by the AG and the OSC. HMOs interested in participating shall be required to submit a Proposal which shall be evaluated under the original Specification's requirements. An addendum containing additional applicable statutory requirements in effect at the time of the periodic recruitment period may be added to the original Specification's requirements.

1.4 Overview of 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 eligible New York State (NYS) employees, retirees, and their dependents. 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). NYS Civil Service Law section 163 also allows local units of government such as school districts, municipal corporations, and special districts (examples include water districts, fire districts, and library districts) to participate in NYSHIP. Local government units which choose to participate in NYSHIP are called Participating Agencies (PAs).

NYSHIP is sponsored by the Council on Employee Health Insurance (Council). The Council is composed of the President of the Civil Service Commission, the Director of the Governor's Office of Employee Relations (GOER), and the Director of the Division of the Budget (DOB).

NYSHIP is currently comprised of the following health insurance plans:

1. The Empire Plan provides health insurance benefits for the employees, retirees and eligible dependents of New York State; and NYSHIP PAs and PEs. It pays for covered hospital services, physicians' bills, prescription drugs, and other covered medical expenses. The Empire Plan, which became fully self-funded as of January 1, 2014, has the highest level of enrollment with over a million covered lives of the approximate 1,241,000 NYSHIP enrollment. Presently, the Empire Plan benefit design consists of four (4) main components that are currently administered under separate Contracts:

    a. Hospital Program benefits, administered by Empire BlueCross, include coverage for hospital inpatient stays, hospice care, emergency care, skilled nursing facilities, and the Transplants Program.

    b. Medical Program benefits, administered by UnitedHealthcare Insurance Company of New York, include coverage for medical and surgical services under the Participating Provider and the Basic Medical Program. Coverage also includes specialty programs such as the Managed Physical Medicine Program and the Home Care Advocacy Program (HCAP).

    c. Mental Health and Substance Abuse Program benefits, administered by Beacon Health Options, include coverage for network and non-network services.

    d. Prescription Drug Program benefits, administered by CVS Caremark, include coverage for prescription drugs dispensed through retail network pharmacies, the Mail Service Pharmacy, and the Specialty Pharmacy Program.

2. The Excelsior Plan is a variation of the Empire Plan available to NYS local government units which choose to participate in NYSHIP. The Excelsior Plan offers many of the same features of the Empire Plan with a higher degree of cost-sharing between the employer and plan participants.

3. HMOs are offered as an alternative to coverage under the Empire Plan. The NYSHIP HMO options are available to State employees and Participating Employers (PEs). The Department requires that the HMO services offered be a community-based premium product, or a Center for Medicare and Medicaid Services (CMS)-approved Medicare Advantage Plan for Medicare-Primary Enrollees. The State currently offers 16 HMO options from 7 different insurers.

4. The Student Employee Health Plan (SEHP) is a health insurance plan for graduate student employees of the State University of New York system that provides benefits through the various Empire Plan insurance contracts. Like the Empire Plan, the SEHP includes hospital, medical, managed mental health and substance abuse benefits, and prescription drug benefits. SEHP is administered by the Department's Employee Benefits Division.

All plans are offered on a calendar year basis. 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. Employer, Employee and Retiree premium contribution rates can be found in the *Employer Premium Contribution Rates* (Attachment 18). Further, Civil Service Law 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.

The number of NYSHIP Enrollees by county is presented in *NYSHIP Enrollment Statistics* (Attachment 17). 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, 16.16% of State and Participating Employers' NYSHIP Enrollees are enrolled in HMOs.

The JLMC is a committee consisting of representatives of the State's collective bargaining units, the Department, and 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.

1.5 Offeror Eligibility

Offeror means any responsible and eligible entity submitting a responsive Proposal to these Specifications. It shall be understood that references in the Specifications to "Offeror" shall include an entity's proposed Subcontractor or Affiliates (as defined in Section 4.3 of these Specifications), if any. The Department and the JLMC request Proposals only from qualified Offerors, as specified below.

1. The Offeror must, at time of Proposal submission and throughout the term of the Contract, possesses the legal capacity to enter into a Contract with the Department.

2. The Offeror, at time of Proposal submission and throughout the term of the Contract, must:

    a. Be licensed as an insurer under Articles 42 or 43 of New York State Insurance Law or certified under Article 44 of New York State Public Health Law, in good standing, and in compliance with state solvency requirements; and

    b. If applicable, be certified/licensed in accordance with the certification and oversight jurisdiction imposed by another state.

3. The Offeror, at time of Proposal submission, must represent and warrant that it has been in operation as a going concern at least two (2) years prior to the Proposal Due Date set forth in Section 1.6 of these Specifications.

4. The Offeror, at time of Proposal submission and throughout the term of the Contract, must be accredited by the National Committee on Quality Assurance (NCQA) and/or Utilization Review Accreditation Committee (URAC).

5. The Offeror must provide a copy of their current Department of Health (DOH) Certificate of Authority to operate as an HMO under Articles 42 or 43 of New York State Insurance Law or Article 44 of New York State Public Health Law, for its requested Service Area, on or before the Tentative Contract Award date set forth in Section 1.6 of these Specifications.

6. The Offeror must agree to accept all determinations of eligibility as made by the Department and must provide a rider that provides identical coverage criteria to the NYSHIP eligibility criteria presented in the *2020 NYSHIP Dependent Eligibility Rider* (Attachment 19).

7. The Offeror must agree to use any 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 comply with the Department's *Information Security*

Requirements (Appendix C) including any additional protocols required by the Department to ensure the security of its data transmissions.

8. The Offeror must 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 Contract. 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. The Offeror must accept signed and valid *NYSHIP Authorization for Release of Protected Health Information* forms (Attachment 27), or any alternative form developed by the Department, for the purpose of the release of Protected Health Information to Enrollees' designees.

1.6 Timeline of Key Events

EVENT	DATE
Specifications Release Date	June 29, 2020
Deadline for Submission of Offeror Affirmation of Understanding	See below*
Deadline for Submission of Offeror Questions	July 9, 2020
Deadline to Submit Notice of Intent	July 9, 2020
Release Date of Official Responses to Offeror Questions	July 14, 2020
Proposal Due Date and Time	July 27, 2020 (3:00 p.m. ET)
Tentative Contract Award	August 14, 2020
Contract Start Date	January 1, 2021

*Prior to the Offeror's initial contact with the Department, the Offeror must complete and submit *Offeror Affirmation of Understanding and Agreement* (Attachment 1) to the Designated Contact identified in Section 2 of these Specifications.

SECTION 2: PROCUREMENT PROTOCOL AND PROCESS

2.1 Rules Governing Conduct of Competitive Procurement Process

All inquiries, questions, filings and submission of Proposals in regard to the Specifications must be directed, in writing to the contact information listed below. Proposals may not be submitted by e-mail or facsimile. Any inquiries, questions, filings or submission of Proposals that are submitted to any other contact or physical address shall not be considered as official, binding or as having been received by the Department.

1. Designated Contact

In accordance with State Finance Law § 139-j(2)(a) (Procurement Lobbying Law (PLL)), the following individual is the Designated Contact for this Solicitation. All questions relating to this Solicitation must be addressed to the following Designated Contact.

Brian Bopp
New York State Department of Civil Service
Attn: Office of Financial Administration, Floor 17
Agency Building 1, Empire State Plaza
Albany, New York 12239
DCSprocurement@cs.ny.gov

2. 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 restrictions on communications between the Department and an Offeror during the procurement process. An Offeror is restricted from making contacts from the earliest posting, on the Department's website, in a newspaper of general circulation, or in the procurement opportunities newsletter in accordance with Article four-C of the Economic Development Law, of written notice, advertisement or solicitation of a request for Proposal, invitation for bids, or solicitation of proposals, or any other method provided for by law or regulation for soliciting a response from Offerors intending to result in a Contract with the Department through final award and approval of the Contract by the Department and, if applicable, the Office of the State Comptroller to other than the Designated Contact (unless it is a Contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a)). This time period is defined as the Restricted Period. The Designated Contact for this procurement is set forth in section 2.1(1) of these Specifications. Staff is required to obtain certain information from an Offeror whenever contacted about the procurement during the restricted period and is required to make

a determination of the Offeror's responsibility that addresses the Offeror's compliance with the statutory requirements. Certain findings of non-responsibility can result in rejection for Contract award and in the event of two findings within a 4-year period, the Offeror is debarred from obtaining governmental Procurement Contracts. The Department's policy and procedures can be found in the *Procurement Lobbying Policy* (Attachment 2). Further information about these requirements can be found at: https://www.ogs.ny.gov/ACPL/.

b. The Department strictly controls communications between any Offeror and participants in the procurement process. "Offeror" means the individual or entity, or any employee, agent or consultant or person acting on behalf of such individual or entity, who contacts the Department about a governmental procurement during the 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 communicate 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.

3. Submission of Errors or Omissions in this Specifications Document

By participating in activities related to these Specifications, and/or by submitting a Proposal in response to these Specifications, an Offeror agrees to be bound by its terms, including, but not limited to, this process by which an Offeror may submit errors or omissions for consideration. If an Offeror believes there is an error or omission in these Specifications, the Offeror may raise such issue as follows:

a. Process for Submitting Assertions of Errors or Omissions in RFP Document

i. *Time Frame:* Assertions of errors or omissions in the RFP process which are or should have been apparent prior to the Proposal 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 1.6 of these Specifications. Business Day(s) means every Monday through Friday, from 9 a.m. to 5 p.m. ET, except for days designated as state holidays by the Department.

ii. *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.

iii. *Format of Submission:* All submissions asserting an error or omission must be in writing and submitted to the Designated Contact in hard copy at the address provided in Section 2 of these Specifications.

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

"Submission of Errors or Omissions for the Health Maintenance Organizations Specifications for the New York State 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 Offeror and the Offeror shall have no further recourse.

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

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. At the discretion of the Commissioner, or the Commissioner's designee, the Offeror may be given the opportunity to meet with the Commissioner or the Commissioner's designee to support its submission. The 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 designee.

The Commissioner or 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 these Specifications document. The Department may elect to extend the Proposal Due Date as may be appropriate. Notice of any such extension will be provided to all organizations who provided an email address on the submitted *Offeror Affirmation of Understanding and Agreement* form (Attachment 1). Notice of any extension will also be posted to: https://www.cs.ny.gov/HMO2021/

4. Submission of Questions

Using the *Questions Template* (Attachment 4), a prospective Offeror may submit questions concerning the content of these Specifications via email to the Designated Contact's address specified in Section 2 of these Specifications. Only those questions received prior to the Questions Due Date specified in Section 1 of these Specifications, will be accepted. After the Questions Due Date, the Department will provide an email notification of the posting of all questions and the Department's official answers to all those individuals who provided an email address on the submitted *Offeror Affirmation of Understanding and Agreement* form (Attachment 1), the *Questions Template* (Attachment 4), the *Notice of Intent* (Attachment 28) and those individuals who register to attend the pre-proposal conference (if any). The questions and answers will also be posted to: https://www.cs.ny.gov/HMO2021/.

5. Submission of Proposal

a. The Offeror's Proposal must be organized and separated into (2) separate sections: Administrative Proposal; and Technical Proposal. To facilitate the evaluation process, an Offeror must follow the submission requirements described below:

   i. One ORIGINAL hard copy and thirteen (13) hard copy versions of each of the two (2) sections of the Specifications, separated into Administrative, and Technical sections.

   ii. Each ORIGINAL hard copy of each section must be marked "ORIGINAL," contain original signatures of an official(s) authorized to bind the Offeror to its provisions on all forms submitted that require the Offeror's signature. The remaining hard copies of each section may contain a copy of the official's signature on all forms submitted that require the Offeror's signature and should be numbered sequentially (i.e., Copy #1, Copy #2).

   iii. A master electronic submission containing all of the ORIGINAL hard copy sections of the proposal must be provided on searchable Adobe Portable Document Format (PDF) electronic media. Electronic media shall be included on unprotected Microsoft Windows formatted USB 2.0 or higher storage drive and must be clearly labeled by proposal section and identified as the master electronic submission. In situations where proposal content differs between the ORIGINAL bound hard copies and the master electronic submission, the master electronic submission is deemed controlling.

iv. The Offeror must submit sixteen (16) additional USB drives, which each contain an electronic copy of the Administrative and Technical Proposal ONLY. The USB drives must conform to the technical specifications outlined in Section 2 of these Specifications. Each of the sixteen electronic copies should be labeled by section and uniquely designated with a number (e.g. "TECHNICAL & ADMINISTRATIVE COPY 1", "TECHNICAL & ADMINISTRATIVE COPY 2, etc."). The sixteen (16) USB drives should be packaged in the sealed box/envelope labeled Administrative Proposal.

v. Each Proposal must include a table of contents.

vi. Each major section of the Proposal, including attachments, must be labeled with an index tab that completely identifies the title of the section, subsection or attachment as named in the table of contents.

vii. Each page of the Proposal, including attachments, must be labeled on the upper right with the Offeror name, applicable Section reference, page number and date. Pages must be numbered consecutively.

viii. Each Proposal must be submitted in binders so that any new/replacement pages required by the Department can be easily incorporated into the binders. The Offeror name, the Proposal Due Date, and "2021 HMO Submission" must appear on the outside cover and on the spine of each binder.

ix. Each electronic Attachment must be a separate searchable PDF document. Each Certificate or Rider must be a separate searchable PDF document. Each electronic document must be clearly named with the specific corresponding file title.

b. Proposals should be placed and packaged together, by section, in sealed boxes/envelopes (i.e., all Administrative Proposals in one box, all and Technical Proposals in a second box). Each sealed box/envelope should contain a label on the outside which contains the information below.

New York State Department of Civil Service
"Health Maintenance Organizations
Specifications for the New York State Health Insurance Program"
OFFEROR NAME
OFFEROR ADDRESS

Indicate content, as applicable

c. All Proposals must be mailed or hand-delivered to the address provided in Section 2.1(1) of these Specifications. To make arrangements for hand-delivery, the Offeror must notify the Designated Contact twenty-four (24) hours prior to delivery. All Proposals must be received by 3:00 p.m. ET on the Proposal Due Date as set forth in Section 1.6 of the Specifications.

d. Any proposal received after 3:00 p.m. ET on the Proposal Due Date, as specified in Section 1.6, shall not be accepted by the Department and may be returned to the submitting entity at the Department's discretion. All Proposals submitted become the property of the Department.

e. The Department will accept amendments and/or additions to an Offeror's Proposal if the amendment and/or addition is received by the Proposal Due Date. All amendments to an Offeror's Proposal must be submitted in accordance with the format set forth in Section 2.1(5) of these Specifications and will be included as part of the Offeror's Proposal. All such amendments must reference the page number(s) from the original Proposal that are being replaced, show the date of the revision and indicate the portion of the page being changed. The PDF version of the replacement pages must be named in the same manner described in Section 2.1(5)(a)(vii).

f. An Offeror is solely responsible for timely delivery of the Proposal to the Department prior to the Proposal Due Date stated in Section 1.6 of these Specifications. Delays in United States mail deliveries or any other carrier, including couriers or agents of New York State, shall not excuse late bid submissions. If the Proposal is delivered by mail or courier, the Department recommends that it be sent "Returned Receipt Requested", so the Offeror obtains proof of timely delivery. No phone, facsimile or e-mail submission of Proposals will be accepted for these Specifications. In addition, it is the sole responsibility of the Offeror to verify that all elements of the Proposal submission are complete, correct and without error.

g. After the Bid Opening, the Department will promptly provide copies of all Proposals to the *JLMC Contact Members* (Attachment 13).

6. Bid Deviations

a. The Department will not entertain bid deviations to *Standard Clauses for New York State Contracts* (Appendix A). The Department will also not entertain material and substantive bid deviations to the solicitation to *Standard Clauses for All Department Contracts* (Appendix B) and *Information Security Requirements* (Appendix C). NYS law precludes awarding a Contract based on material deviation(s) from the

specifications, terms, and/or conditions set forth in the solicitation. Therefore, Proposals containing a bid deviation (including additional, inconsistent, conflicting or alternative terms) that are a material and substantive change from the specifications, terms, and conditions set forth in the solicitation may render the Proposal non-responsive and may result in rejection of the Proposal.

b. If Offeror has an issue or concern regarding provisions in the solicitation and is considering submission of a proposal containing a bid deviation, Offeror is strongly advised to raise such issues and/or concerns during the question and answer period so that the Department may give due consideration to the issue prior to the submission of Proposals. Failure to use the question and answer period and instead submitting a Proposal containing a bid deviation could render the entire Proposal non-responsive and rejected in its entirety.

c. In general, a material and substantive bid deviation is one that would (i) impair the interests of New York State, (ii) place the successful Offeror in a position of unfair economic advantage, (iii) place other Offerors at a competitive disadvantage, or (iv) which, if it had been included in the original solicitation, could have formed a reasonable basis for an otherwise qualified Offeror to change its determination concerning the submission of a Proposal. For example, a deviation that would substantially shift liability (risk) or financial responsibility from the Offeror to New York State would be considered material.

d. An Offeror is further advised that its standard, pre-printed material (including but not limited to product literature, order forms, manufacturer's license agreements, standard contracts or other pre-printed documents), which are physically attached or summarily referenced in the Offeror's Proposal, unless specifically required by the solicitation to be submitted as part of the Offeror's Proposal, are not considered as having been submitted with or intended to be incorporated as part of the official offer contained in the Proposal. Rather, such material shall be deemed by the Department to have been included by Offeror for informational or promotional purposes only.

e. To submit a non-material bid deviation, an Offeror must complete and submit the proposed deviation(s) using the *Non-Material Deviations Template* (Attachment 8), as part of the Administrative Proposal. If a non-material bid deviation does not meet these requirements, it shall not be considered by the State and shall be rejected.

f. An Offeror who does not submit the *Non-Material Deviations Template* (Attachment 8), as part of the Administrative Proposal is presumed to have no bid deviations.

7. Notification of Tentative Contract Award

A tentative award letter will be sent to the selected Offerors indicating a tentative award subject to successful Contract negotiations and approval by OSC.

8. Debriefing

Unsuccessful Offerors will be advised of the opportunity to request a Debriefing and the timeframe by which such requests must be made. Debriefings are subject to the *NYS Department of Civil Service Debriefing Guidelines* (Attachment 5). An unsuccessful Offeror's written request for a debriefing shall be submitted to the address provided in Section 2 of these Specifications.

9. Submission of a Protest

By participating in activities related to this Procurement, and/or by submitting a Proposal in response to these Specifications, an Offeror agrees to be bound by its terms including, but not limited to, the process by which an Offeror may submit a protest of a non-responsive determination or the selection award for consideration. In the event the Offeror elects to submit a protest of a non-responsive determination, the Offeror agrees it shall not be permitted to also submit a protest on the selection decision. In the event that an Offeror decides to submit a protest, the Offeror may raise such issue according to the following provisions.

a. Process for Submitting a Protest of a Non-Responsive Determination or a Selection Decision

i. Time Frame*:* Any protest must be received no later than ten (10) Business Days after an Offeror's receipt of written notification by the Department of a non-responsive determination or tentative award.

ii. Content: The protest must fully state the legal and factual grounds for the protest and must include all relevant documentation.

iii. Format of Submission: The protest must be in writing and submitted to the Designated Contact at the address provided in Section 2 of these Specifications.

iv. A protest of either a non-responsive determination or a selection decision must have one of the following statements clearly and prominently displayed on the envelope or package:

"Submission of Non-Responsive Determination Protest for Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

OR

"Submission of Tentative Award Protest for Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

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

b. **Review of Submitted Protests**

i. 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 Proposal, the determination of non-responsiveness, or the selection decision. At the discretion of the Commissioner, or the Commissioner's designee, the Offeror may be given the opportunity to meet with the Commissioner or the Commissioner's designee, to support its submission. The Offeror may, but need not, be represented by counsel at such a meeting. The Department shall be represented by counsel at such meeting. Any issues concerning the way the review process is conducted shall be determined solely by the Commissioner, or the Commissioner's designee.

ii. The Commissioner, or the Commissioner's designee, shall review the matter, and shall issue a written decision within twenty (20) Business Days after the close of the review process. If additional time is necessary for the issuance of the decision, the Offeror shall be advised 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.

iii. If an Offeror protests the selection decision or a non-responsive

determination, the Department shall continue Contract negotiations regarding the terms and conditions of the Contract with the selected Offeror.

10. Department of Civil Service Reservation of Rights

In addition to any rights articulated elsewhere in these Specifications, the Department and the JLMC reserve the right to:

a. Make or not make an award under the Specifications, either in whole or in part;

b. Prior to the bid opening, amend the Specifications. If the Department elects to amend any part of these Specifications, such amendments will also be posted to: https://www.cs.ny.gov/HMO2021/;

c. Prior to the bid opening, direct Offerors to submit Proposal modifications addressing subsequent Specifications amendments;

d. Withdraw these Specifications, at any time, in whole or in part, prior to OSC approval of award of the Contract;

e. Waive any requirements that are not material;

f. Disqualify any Offeror whose conduct and/or Proposal fails to conform to any of the mandatory requirements of these Specifications;

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

h. Reject any or all Proposals received in response to these Specifications;

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

j. Seek clarifications and revisions of Proposals;

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 Offeror;

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

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 Offeror's technical assumptions, and underlying calculations and assumptions used to support the Offeror'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, and the Department's own investigation of an Offeror's qualifications, experience, ability or financial standing, and any other material or information submitted by the Offeror in response to the Department's request for clarifying information, if any, in the course of evaluation and selection under these Specifications;

o. Negotiate with the successful Offeror within the scope of these Specifications in the best interests of the Department;

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

q. Unless otherwise specified in these Specifications, every offer is firm and not revocable for a minimum period of three hundred sixty- five (365) days from the Proposal Due Date as set forth in the Specifications; and

r. Any Offeror whose Proposal might become eligible for a tentative award may be asked to extend the time for which its Proposal shall remain valid.

s. The Department reserves the right to hold a Technical Management Interview with any Offeror, at any time, prior to the Tentative Contract Award. Any Technical Management Interview will be scheduled and conducted, in consultation with the JLMC, with the purpose of obtaining clarifying information regarding the Offeror's proposal submission.

11. Disclaimer

The Department is not liable for any cost incurred by any Offeror prior to approval of the Contract by OSC. Additionally, no cost will be incurred by the Department for any prospective Offeror or Offeror's participation in any Procurement-related activities. The Department has taken care in preparing the data accompanying these Specifications (hard copy attachments, website attachments, and sample document attachments). However, the Department does not warrant the accuracy of the data. The numbers or statistics which appear in hardcopy attachments, website attachments, and sample document attachments referenced throughout these Specifications are for informational purposes only and should not be used or viewed by prospective Offerors as guarantees or representations of any levels of past or future performance or

participation. Accordingly, prospective Offerors should rely upon and use such numbers or statistics in preparing their Proposal at their own discretion.

2.2 Compliance with Applicable Laws, Rules and Regulations, and Executive Orders

This Procurement is subject to the New York State competitive bidding laws and also governed by, at a minimum, the legal authorities referenced below. An Offeror must fully comply with the provisions set forth in this section of the Specifications, as well as the provisions of the *Standard Clauses for New York State Contracts* (Appendix A) and the *Standard Clauses for All Department Contracts* (Appendix B) and *Information Security Requirements* (Appendix C), which will become a part of the resulting Contract. The Department will consider for evaluation and selection purposes only those Offerors who agree to comply with these provisions and whose proposal contains the submission required hereunder.

1. Disclosure of Proposal Contents – Freedom of Information Law (FOIL)

a. NOTICE TO OFFEROR AND ITS LEGAL COUNSEL

All materials submitted by an Offeror in response to these Specifications shall become the property of the Department and may be returned to the Offeror at the sole discretion of the Department. Proposals may be reviewed or evaluated by any person, other than one associated with a competing Offeror, designated by the Department. Offerors may anticipate that Proposals will be evaluated by staff and consultants retained by the Department; Members of the JLMC; and may also be evaluated by staff of other New York State agencies interested in the provision of the subject services including, but not limited to, GOER and DOB, unless otherwise expressly indicated in these Specifications. The Department has the right to adopt, modify, or reject any or all ideas presented in any material submitted in response to these Specifications.

The Department shall take reasonable steps to protect from public disclosure any records or portions thereof relating to this solicitation that are exempt from disclosure under the New York State Freedom of Information Law (FOIL). Information constituting trade secrets or critical infrastructure information for purposes of FOIL must be clearly marked and identified as such by the Offeror upon submission. To request that materials be protected from FOIL disclosure, the Offeror must follow the procedures below regarding FOIL. If an Offeror believes that any information in its Proposal or supplemental submission(s) constitutes proprietary and/or trade secret or critical infrastructure information and desires that such information not be disclosed pursuant to the New York State Freedom of Information Law, Article 6 of the Public Officers Law, the Offeror must make that assertion by completing a *Freedom of Information*

Law Request for Redaction Chart (Attachment 11). The Offeror 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 Attachment 11 contains information regarding appropriate justification for protection from FOIL disclosure. Vague, non-specific, or summary assertions that material is proprietary or trade-secret are inadequate and will not result in protection from FOIL disclosure.

The completed Attachment 11 must be submitted to the Department at the time of its Proposal submission; it should be included with the Requested Redactions (USB storage drive and Hard Copy), described below. It should not be included in the Offeror's Proposal. If the Offeror chooses not to assert that any Proposal material and/or supplemental submission should be protected from FOIL disclosure, the Offeror should so advise the Department by checking the applicable box on Attachment 11 and submitting it to the Department at the time of its Proposal submission, but separately from its Proposal. If a completed Attachment 11 form is not submitted, the Department will assume that the Offeror chooses not to assert that any proposal material or supplemental submission, as applicable should be protected from FOIL disclosure.

The FOIL-related materials described herein are not considered part of the Offeror's Proposal and shall not be reviewed as a part of the Procurement's evaluation process.

Acceptance of the identified information by the Department does not constitute a determination that the information is exempt from disclosure under FOIL. Determinations as to whether the materials or information may be withheld from disclosure will be made in accordance with FOIL at the time a request for such information is received by the Department.

b. Requested Redactions (USB Storage Drive and Hard Copy):

At the time of Proposal submission, the Offeror is required to identify the portions of its Proposal that it is requesting to be redacted in the event that its Proposal is the subject of a FOIL request as follows.

The Offeror must provide an electronic copy of the Administrative Proposal and the Technical Proposal on a separate USB storage drive of the type outlined in Specifications Section 2, which reflect the Offeror's requested redactions. Additionally, the Offeror must provide a separately bound hardcopy of each of the two (2) Proposal documents with redactions marked, but not applied, that are included on the USB storage drives. 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 Proposal 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 Offeror'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 USB storage drives and in hard copy must be complete Proposals, including all Attachments. No section may be omitted from the USB storage drive or hard copy even if the entire section is requested to be redacted; such sections should be marked for redaction, not removed. For forms, attachments, and charts, please mark for redaction only those cells/fields/entries that meet the criteria for protection from FOIL, not the entire page. Do not request redaction of Department-supplied materials or information.

During the Proposal evaluation process, the Department, in consultation with the JLMC, may request additional information through clarifying letters. Any requested redactions for additional written material provided by the Offeror in response to the Department's requests also must be submitted following the instructions, above.

2. Public Officers Law

All Offerors and Offerors' employees and agents must 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 NYS law, rules and regulations, and policy establishing ethical standards for current and former State employees. Failure to comply with these provisions may result in disqualification from the Procurement process, termination, suspension or cancelation of the Contract and criminal proceedings as may be required by law. An Offeror must submit an affirmative statement as to the existence of, absence of, or potential for conflict of interest on the part of the Offeror because of prior, current, or proposed Contracts, engagements, or affiliations, by submitting a completed *New York State Required Certifications* (Attachment 7), in the Offeror's Administrative Proposal.

3. New York State Required Certifications

An Offeror is required to submit the signed *New York State Required Certifications* (Attachment 7) with its Administrative Proposal. This attachment sets forth the Offeror's required statements on the MacBride Fair Employment Principles and Non-Collusive Bidding Certification. It also sets forth the certifications regarding compliance with the Federal Americans with Disabilities Act, compliance with the NYS Public Officers Law, certification required under NYS Procurement Lobbying Law, certification required under Executive Order

No. 177 and certification required by New York State Finance Law section 139-l regarding written sexual harassment policies.

4. New York Subcontractors and Suppliers

An Offeror is required to complete *New York State Subcontractors and Suppliers* (Attachment 12). 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 NYS, An Offeror for this Contract is strongly encouraged and expected to consider NYS businesses in the fulfillment of the requirements of the Contract. Such partnering may be as subcontractors, suppliers, protégés, or other supporting roles.

5. 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).

SECTION 3: PROJECT SERVICES

The Department seeks qualified Offerors to provide the following Project Services as an HMO within the NYSHIP. For the purpose of submitting a Proposal, an Offeror must meet the Offeror Eligibility requirements specified in section 1.5 and provide the following Project Services during the Contract term:

3.1 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.

1. Duties and Responsibilities

The Offeror must:

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 Contract;

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 Contract 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 Members 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.

3.2 NYSHIP Eligibility Requirements

HMOs that are selected must accept all individuals determined by the Department to be eligible for services under the Contract that results from these requirements and may not enroll any individuals who have not been determined to be eligible by the Department. The Department will send the HMO information about eligible Enrollees and Dependents on an enrollment file on a scheduled basis as determined by the Department. 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 without first receiving a determination by the Department is when CMS tells an HMO to disenroll the individual due to other coverage. In this situation, the HMO must notify the Department within one (1) Business Day of notification by CMS.

To facilitate accurate enrollment records, HMOs that are selected must work with the State including the New York State Office of Information Technology Services (ITS) to develop an automated process for Medicare enrollment reconciliations, at no additional cost to the State.

Individuals who may enroll in an HMO through NYSHIP include Employees and Retirees of the State of New York and 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 and/or 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 *2020 NYSHIP Eligibility Rider* (Attachment 19) provides the NYSHIP Dependent eligibility requirements.

NYSHIP's dependent eligibility provisions include, but are not limited to:

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 as of the divorce or annulment effective date, 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, are also eligible. The Enrollee must verify eligibility by submitting a completed *PS-457 Statement of Dependence* form (Attachment 29) in addition to providing 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 disability, as defined in the mental hygiene law, or physical disability, who became incapacitated prior to attainment of the age at which Dependent coverage would otherwise be terminated, are eligible.

F. An Enrollee's unmarried children, including adopted children and stepchildren through age 29 ("Young Adult"), who live, work, or reside in New York State or the Service Area of the HMO's network-based NYSHIP policy are eligible to enroll for coverage under the Young Adult Option if these Young Adults:

    I. 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

    II. Are not covered under Medicare.

    In addition:

    III. the Young Adult need not live with the parent, be financially dependent upon the parent, or be a student;

    IV. 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;

    V. 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;

    VI. the parent need not have family coverage for the young adult to enroll in the Young Adult Option; and

VII. the Young Adult need not have been previously covered under the parent's NYSHIP coverage.

For additional information related to the Young Adult Option, please refer to Attachment 19.

G. Dependent(s) of a deceased Enrollee may be eligible to continue coverage as a dependent survivor. The Enrollee must have completed at least 10 years of benefits eligible service, and the dependent must have been covered as the Enrollee's dependent under NYSHIP at the time of the Enrollee's death. The 10-year service requirement is waived if the Enrollee's death was the result of a work-related injury. Additionally, a dependent spouse, or domestic partner, is ineligible for survivor benefits if they remarry or acquired a new domestic partner. Dependent children must also meet all relevant eligibility criteria as a child dependent.

H. An Enrollee who is eligible for Vestee coverage may also cover their eligible dependent(s). The dependent(s) must meet the relevant eligibility criteria. A Vestee is a former benefits eligible employee who has met the service requirement to continue coverage as a retiree, and the relevant pension system service requirement, but has not met the age requirement to collect a pension. The eligible Enrollees may continue Vestee coverage until they qualify for retirement, so long as they are not canceled for non-payment of premium.

1. <u>Duties and Responsibilities</u>

a. 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.

b. The HMO must maintain accurate, complete, and up-to-date enrollment files, based on information provided by the Department. These enrollment files shall be used by the Offeror to process claims, provide customer service, identify individuals in the enrollment file for whom Medicare is primary, and produce management reports and data files.

c. The Department will send the HMO an eligible Enrollees and Dependents enrollment file on a scheduled basis. An HMO may not independently add an Enrollee or Dependent who has not been determined by the Department to be eligible.

d. The only time an HMO may disenroll an individual without first receiving a determination by the Department 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~~<u>one</u> (~~5~~<u>1</u>) Business Day~~s~~ of notification by CMS.

e. A participating HMO must comply with the *Information Security Requirements* (Appendix C) and ensure the confidentiality, integrity and security of all enrollment information.

f. Use of 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.

3.3 Disabled Dependent Determinations

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, a *Statement of Disability Dependent 19 Years of Age or Older Form PS-451* (Attachment 22) 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 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:

A. "Expected," the case will be normally reviewed within six to eight months, unless the HMO determines a need for a more frequent review.

B. "Possible," the case will be normally reviewed no sooner than three years, unless the HMO determines a need for a more frequent review.

C. "Not expected," the case will normally be reviewed no sooner than seven years, unless the HMO determines a need for a more frequent review.

1. Duties and Responsibilities

a. 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.

b. 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.

3.4 Plan Requirements

The Offeror must 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 Contract. 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. The Offeror cannot offer a Plan that provides coverage to Medicare eligible enrollees only.

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.

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

1. Duties and Responsibilities

a. Commercial Plan Benefit Requirements

i. Must be fully Patient Protection and Affordable Care Act (PPACA) compliant.

ii. An HMO 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.

iii. Starting with the 2022 plan year, and for each subsequent year of the resulting Contract, an HMO may not utilize coinsurance as a cost sharing mechanism for air ambulance services in their proposed benefit package.

iv. Coverage must comply with all services required by Federal and State laws and/or regulations in addition to the following enhanced coverage:

1) 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;

2) 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;

3) 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;

4) 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

5) Coverage for diagnosis and treatment of Gender Dysphoria.

v. Benefits for services not listed as minimum benefit requirements pursuant to Section 3.4 of these Specifications, 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. As such, such riders and costs should not be included in HMO Rate Submission Template (Attachment 31). Exclusions and other limiting language are subject to modification by the Department in consultation with the JLMC.

vi. HMOs may propose to meet the minimum benefit requirements

set forth in these requirements using 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. HMOs 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. 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 at an additional cost, or which provide benefits in excess of the minimum benefit requirements at an additional cost, may be rejected by the Department in consultation with the JLMC.

b. Medicare Advantage Plan Benefit Requirements

i. The HMO's Medicare Advantage Plan must follow the regulations and requirements set forth in the CMS Medicare Managed Care Manual (MMCM). The Department is obligated to follow the rules and regulations in the MMCM as applicable to the employer group.

ii. The benefit levels provided must meet or exceed the minimum benefits as set forth in Section 3.4 of these Specifications; and 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.

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

iv. Starting with the 2022 plan year, and for each subsequent year of the resulting Contract, an HMO's proposed Medicare Advantage Plan may not utilize coinsurance as a cost sharing mechanism for either Part B medications or air ambulance services.

v. An HMO may submit only one product for Medicare primary

Enrollees. It may submit either (a) the Commercial Plan which coordinates with Medicare and includes prescription drug coverage equal to, or better than, Medicare Part D or (b) a Medicare Advantage with Prescription Drug Plan. An HMO must provide Part D coverage at an equal level to the Commercial Plan in the coverage gap.

vi. An HMO whose CMS Star quality rating 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.

vii. The HMO must agree to cooperate with the Department to enroll individuals into the HMO's Medicare Advantage Plan as they become Medicare eligible in accordance with this 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:

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

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 any consequences to their benefits opting out would bring. This notice shall be provided to Enrollees and/or their eligible dependents not less than 21 calendar days prior to the effective date of coverage in the MAPD Plan;

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

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."

viii. The HMO must follow the procedures set forth in Chapter 2 of the MMCM, Optional Mechanism for MA Group-sponsored Plan Enrollment, which allows an employer to enroll its retirees using an enrollment process that does not require submission of a signed application by the retiree. The HMO must agree to work in cooperation with the Department to enroll individuals into the HMO's Medicare Advantage Plan as they become Medicare eligible in accordance with this process. Enrollments into the HMO's Medicare Advantage Plan may not occur unless received by the HMO through the Department's enrollment files.

ix. HMOs must obtain any additional Member information not included on the Department enrollment files required for the HMO to submit an enrollment request to CMS, as set forth in the MMCM. The HMO must advise the Department 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 Department within 2 Business Days from receipt of such notification from CMS.

x. The HMO shall furnish MAPD identification cards and Evidence of Coverage (EOC) documents, which describe in detail the prescription drug benefits covered by the plan, to each MAPD Member enrolled for MAPD Plan benefits.

xi. 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.

xii. An HMO that offers a Medicare Advantage Plan through NYSHIP shall agree to notify the Department on a ~~monthly~~weekly basis in a specified format 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:

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

2) 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;

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 Medicare Beneficiary Identifier (MBI) or does not reside in service area; and

4) Other situations not described above.

xiii. 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.

xiv. 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.

xv. 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.

xvi. 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.

3.5 Service Requirements

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. An HMO 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 the 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. 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.

An HMO must ensure that comprehensive health care services are available to covered individuals. Title 10 of New York State Code, Rules, and Regulations (Part 98) defines Comprehensive Health Care Services as all those health services which an enrolled population might require in order to be maintained in good health, and shall include, but shall not be limited to:

A. Physician and other provider services (including consultant and referral services);

B. Inpatient and outpatient hospital services;

C. Diagnostic laboratory and therapeutic and diagnostic radiologic services; and

D. Emergency and preventive health services, including providing HIV counseling and recommending voluntary HIV testing to pregnant women.

1. **Duties and Responsibilities**

a. An HMO must comply with New York State Laws and/or regulations; provide coverage to Members, either directly or through their Primary Care Physician (PCP), twenty-four (24) hours a day, 365 days a year; and instruct their Members on what to do to obtain services after regular business hours.

b. An HMO must also abide by the following appointment standards:

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

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

iii. Non-urgent “sick visits,” within 48 to 72 hours, as clinically indicated;

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

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

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

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

3.6 Communications Material Requirements

The Department and the JLMC place a high priority on ensuring that NYSHIP Members are able to make informed choices when selecting a health plan during the annual Option Transfer Period. The Department requires that the benefits offered by an HMO be fully described to the HMO’s Members.

To assist NYSHIP Members 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 Members may easily compare the benefits offered. The information to be included in these Choices pages is outlined in *CHOICES Guide* (Attachment 34). Please note that the Department reserves the right to add, remove or change any of the Choices page requirements for each plan year of the Contract.

1. **Duties and Responsibilities**

    a. All Member communication material must be pre-approved by the Department prior to distribution to Members. For purposes of Section 3.6 and the resultant Contract, "Member communication material" is defined as any electronic or hardcopy communications directly or indirectly distributed to NYSHIP Members. Distribution means delivery through any media electronic or otherwise directly or indirectly targeting NYSHIP Members. This includes both annual benefit plan communications and updated Member communication material distributed by the HMO throughout the year.

    b. Upon approval by the Department and JLMC, the HMO must distribute the Cover Letter, Schedule of Benefits, and the applicable Side-by-Side Comparison of Benefit Changes to Members in hard copy, in one envelope and in one mailing. Final versions of these mailings must be sent to all *JLMC Contact Members* (Attachment 13) at least one (1) week prior to mailing to NYSHIP Members.

    c. All Member communication material must present a clear, factually correct, complete and easily understood description of the benefits available through the HMO. Any incorrect or incomplete Member communication material sent by the HMO to NYSHIP Members related to Member communication materials must be corrected and re-sent at the HMO's expense. Benefits offered and/or received through incorrect or incomplete Member communication material sent by the HMO must be covered until the Member(s) receive the corrected Member communication material or, at the discretion of the Department, in consultation with the JLMC, for the balance of the Plan Year.

    d. Member 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 refer 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."

e. Member communication materials may not discriminate on the basis of a potential Member's health status, prior use of health service, or need for future health services.

f. HMOs may not distribute Member communication materials that mislead or confuse NYSHIP Members by promoting or misstating benefits for which the NYSHIP Member is not covered.

g. The premium cost or rate information of all NYSHIP health plan options will be communicated to Enrollees by the Department's Employee Benefits Division and shall not be included in any communication materials distributed by any HMO, with the exception of rate filing notifications required by the New York State Department of Financial Services (DFS). 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.

h. Visual presentations of Members in the HMO Member communication material must represent a diverse New York State workforce.

i. All HMOs must include the following statement in the Cover Letter for the Member communication materials mailing to HMO NYSHIP Members: "Your Eligibility Guidelines may be different from those guidelines listed in the Certificate of Coverage. 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."

j. The HMO must comply with PPACA to produce, revise, distribute and, upon request, translate a Summary of Benefits and Coverage (SBC) that accurately describes the NYSHIP group benefits and coverage to all HMO NYSHIP Members. The SBC must be provided to the Department in an Adobe PDF electronic format 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 requesting a hard copy in accordance with PPACA 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.

k. 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. See *SAMPLE Schedule of Benefits* (Attachment 24).

l. HMOs that participate in NYSHIP in 2020 are required to submit a Side by Side Comparison of Benefits that lists changes in the benefits offered to Enrollees from 2020 to 2021. 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. See *SAMPLE Side-by-Side Comparison* (Attachment 25).

m. In addition to the required Member communication material, HMOs may develop and distribute other marketing materials to current NYSHIP Enrollees who live or work in the HMO's NYSHIP service area. All Member communication materials distributed to NYSHIP Members must present the NYSHIP HMO's benefits. The Department will not provide any information to HMOs regarding the identification of eligible NYSHIP Enrollees or their mailing addresses. Any Member communication materials distributed by the HMO to NYSHIP Enrollees must be pre-approved by the Department, in consultation with the JLMC, prior to distribution.

n. HMOs shall not provide NYSHIP Members with gift(s) as an inducement to enroll in the HMO. Generally, a gift is something that has a fair market value of $15.00 or more (i.e. nominal value).

o. HMOs are not permitted to conduct NYSHIP related marketing activities including distribution of NYSHIP related material, at any worksite event without prior approval of the Department. HMOs may only distribute Department approved materials that provide specific information regarding the NYSHIP HMO or relate to general health care issues at such events. Worksite events include, but are not limited to, health benefit fairs and information booths.

p. Distributed promotional items (e.g. pens, shirts, mugs, phone holder etc.) or advertising or promotional material (e.g. billboards, brochures, flyers, postcards, business cards, posters, menus, sales sheets, etc.) shall not contain the NYSHIP logo or the term NYSHIP or any language that would infer the State promotes or supports the particular HMO.

q. If an HMO's benefit changes are expected to reduce premium costs, a notation may be included in the HMO communication 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.

r. All Member communication materials must be submitted to all JLMC Members for approval before the submission deadline specified in the *Timeline of Key Events for Plan Year 2021* (Attachment 26). JLMC Contact Members may approve optional marketing materials submitted late, but also reserve the right to disapprove any material that does not meet the specified deadline. The HMO shall adhere to the Department's decision on any and all optional marketing materials, regardless of format or timing of deployment. For purposes of this section "optional marketing materials" refer to any communication or promotional materials, electronic or otherwise, made visible and relevant to NYSHIP Members or used to promote enrollment by the HMO that are outside of the required Member communications materials.

s. The HMO is required to advise all *JLMC Contact Members* (Attachment 13) 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.

t. For the initial year of this Contract term, the HMO is required to list its current five 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 during the term of the Contract, an HMO must advise the Department and JLMC Contact Members in writing of any change to NYSHIP's position in the standings.

u. Notification of proposed changes in the configuration of Service Area counties, including a shift in Service Area counties within rating regions or the establishment of a new rating region(s), must be provided to the Department at the same 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* (Attachment 13) with copies of all notification materials for Members impacted by the region switch prior to distribution to the Members.

3.7 Reporting

The Offeror must provide the Department with regular, periodic reports that are designed to document that Member, network, and account management service levels are being maintained and that claims are being paid in accordance with the Contract. The Offeror may on occasion be requested to provide ad-hoc reporting and analysis within 24 hours.

In order to fulfill its obligations to enrolled Plan Members and ensure Contract compliance, the Offeror must provide accurate claims data information on a claim processing cycle basis as well as summary reports concerning the Plan and its administration.

All electronic files must be in a format acceptable to the Department. The Department will review and approve the proposed format, but this format may be adjusted during the term of the Contract. Upon receipt by the Department, all electronic files are first validated for compliance with the agreed-upon file structure. Files that fail to adhere to this structure are rejected in their entirety and must be re-submitted.

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

1. Duties and Responsibilities

a. An HMO 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 Department and *JLMC Contact Members* (Attachment 13) in searchable format upon request. All Member identifying information must be redacted.

b. The Department requires an HMO 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 Department or JLMC *Contact Members* (Attachment 13) upon request.

c. The Department requires an HMO 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 Department or *JLMC Contact Members* (Attachment 13) upon request.

d. The HMO must provide all JLMC Contact Members (Attachment 13) with

notification of changes in Subcontractors within thirty (30) days of such changes becoming final.

e. 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 Members* (Attachment 13).

f. The HMO must notify the Department on a weekly 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 Medicare Beneficiary Identifier (MBI), no Medicare Parts A and/or B, or enrollment in another Medicare Advantage Plan or Medicare Part D plan. The Department must also be notified if an Enrollee moved out of the HMOs Service Area or is deceased. The HMO must notify the Department using the format provided in the *Medicare Enrollment Report Format and Frequency* (Attachment 21).

g. The HMO must file its Medical Loss Ratio (MLR) with the federal government by July 1st of each calendar year. The HMO must provide its filed MLR to the Department no later than September 1st of each calendar 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 September 30th of that calendar year as required under the PPACA. In addition, notification must be provided to both Enrollees and the employer group in instances where the MLR threshold has not been met.

h. The HMO must submit a Low-Income Subsidy (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:

    i. Payment Date

    ii. Carrier ID

    iii. Benefit Plan

    iv. Benefit Program

    v. Last Name, First Name

    vi. Date of Birth

vii. MBI

viii. Member ID

ix. Social Security Number

x. Number of Payments

xi. Payment Start Date

xii. Payment End Date

xiii. ADJ (Adjustment) Reason Code

xiv. ADJ (Adjustment) Reason Code Description

xv. LIS Premium Subsidy Amount.

i. Consistent with State and Federal regulations, Healthcare Effectiveness Data and Information Set (HEDIS) Reports need to be completed on a timely basis.

3.8 Submission of Premium Rates

Those HMOs selected by the Department and the JLMC for participation in the NYSHIP in 2021 shall be required to submit premium rates to the Department by the date specified in this Section 3.8 of these Specifications and in accordance with *HMO Rate Submission Template* (Attachment 31). In order to prepare for the annual health insurance Option Transfer Period, NYSHIP premium rate submissions are due by September 1st 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 Members are included. The premiums submitted to the Department shall be guaranteed rates under DFS regulation 11 NYCRR 52.42(b). The premium rates guaranteed shall be the presently prevailing approved or filed premiums. The premium rates for those Members who reside out of state must be the same as NYS premium rates filed with the NYS DFS.

Many HMOs submit for a rate adjustment to DFS with an effective date of January 1st. 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. To ensure the timely review and implementation of annual NYSHIP HMO premium rate changes by the Department, the HMO's selected for participation in NYSHIP must submit rate adjustments to DFS by June 1st of each calendar year.

1. Duties and Responsibilities

The HMO must provide the following detailed information to support the quoted premium rates.

a. The Offeror must provide a complete copy of the DFS's "Prior Approval Rate Change" application along with the printout of the System for Electronic Rate and Form Filing (SERFF) disposition notice indicating DFS approval of the rates submitted must be submitted to the Department by September 1st of each Calendar Year. The SERFF, administered by the National Association of Insurance Commissioners (NAIC), is a web-based system that facilitates the submission of electronic rate and form filing and facilitates electronic storage, management analysis, and communication regarding filings and their disposition.

b. If the Offeror has a rate request pending DFS's approval with an effective date no later than January 1st, the Offeror must submit a complete copy of the DFS "Prior Approval Rate Change" application and the SERFF application notice indicating submission of the application by September 1st of each Calendar Year. The receipt confirmation from the DFS must be sent to the Department upon receipt from DFS.

c. 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 DFS; and (2) Medicare Rate Adjustments (if applicable):

    i. 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.

    ii. Medicare Rate Adjustments 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 *HMO Rate Submission Template* (Attachment 31).

3.9 Website Access

The HMO must provide the Department and JLMC Contact Members responsible for administrative oversight of NYSHIP HMOs during the term of the Contract access to

website applications that are available only to Members. The HMO must also provide the address of its 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.

3.10 Medicare Coordination and Secondary Payment

The Department requires that the Offeror coordinate and comply with the requirements of the Centers for Medicare and Medicaid Services (CMS); this includes complying with Medicare Crossover and all Medicare Secondary Payor Mandatory Reporting and data matching established and required by CMS. Medicare Crossover is the process by which Medicare, as a primary insurance carrier for some Plan Members, automatically forwards Medicare Part B claims to the Offeror for processing. The Department also receives demand summary notices from Medicare for claims that Medicare believes were paid in error. In 2019, the Department received 295 demand summaries totaling over $4.5 million, and in 2018, the Department received 217 notices totaling over $104.7 million.

The Offeror shall also be required to provide the appropriate benefit level to Members diagnosed with end-stage renal disease (ESRD) and adjudicate claims as per Medicare Secondary Payor Rules and regulations.

1. **Duties and Responsibilities**

   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. The HMO shall immediately remit to the Department a copy of any MSP notice received that pertains to a NYSHIP Member. The HMO shall provide status updates on each MSP case through and including final payment resolution.

   b. Upon receipt of a demand letter directly from 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;

   c. 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 reimburse 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;

d. 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

e. 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 and shall reduce the next premium payment to the HMO by the amount of such offset.

3.11 Annual Recertification

HMOs selected for participation in the NYSHIP for 2021 may continue participation in NYSHIP in 2022 through and including 2025, at the discretion of the Department, in consultation with the JLMC. Acceptance by the Department and JLMC for participation in 2021 is not a guarantee that the Department will approve an HMO's continued participation in NYSHIP in 2022 or beyond. Upon acceptance for participation in NYSHIP in 2021, 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. The Offeror's continued participation in NYSHIP for each year subsequent to the initial year of the Contract term is contingent upon the Department and the JLMC's review and approval of the Required Annual Submission. Failure of the HMO to submit the Required Annual Submission documents to the Department by the established annual deadline (as identified in an annual call letter by the Department to the HMO) may result in rejection of an HMO's Submission, suspension of that HMOs participation in NYSHIP for the default year, or other consequence such as the Department's freezing of enrollment in that HMO. A suspended HMO may apply for participation in subsequent years by adhering to the Required Annual Submission Requirements. The deadline for this annual certification is addressed through an annual call letter to the HMOs. The Department, in consultation with the JLMC, may also hold periodic annual submission meetings with the HMOs to discuss HMO performance or annual submission materials.

An HMO's continued participation in NYSHIP for each year subsequent to 2021 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:

1. A current DOH Certificate of Authority for an HMO to operate within an approved Service Area and the ability to provide comprehensive hospital, medical and prescription drug benefits for covered Enrollees.

2. Current HMO status based on the National Committee on Quality Assurance (NCQA) or Utilization Review Accreditation Committee (URAC).

3. Subcontractors listing.

4. Service Area expansion requests.

5. Submission to offer or discontinue a Medicare Advantage product.

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

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

    a. Enrollee Certificate of Coverage

    b. MAP Evidence of Coverage

    c. Choices - HMO e-page

    d. Schedule of Benefits

    e. Side by Side comparison of changes in benefits from 20XX (current year) to 20XX (upcoming year)

    f. Coverage Riders and Addendums

    g. Annual communication materials to Enrollees

    h. Summary of Benefits and Coverage

    i. 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.

SECTION 4: ADMINISTRATIVE PROPOSAL

This section of the Specifications sets forth the requirements for the Offeror's Administrative Proposal. The Department will consider for evaluation and selection purposes only those Proposals the Department determines to be in compliance with the requirements set forth in this section of the Specifications. Any Offeror which fails to satisfy any of these requirements shall be eliminated from further consideration.

The Offeror's *Administrative Proposal* 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 2 of these Specifications.

4.1 Formal Offer Letter

The Offeror must submit a formal offer in the form of the *Formal Offer Letter* (Attachment 3). The formal offer must be signed and executed by an individual with the capacity and legal authority to bind the Offeror in its offer to the State. The copy of the Offeror's Administrative Proposal marked "ORIGINAL" requires a letter with an original signature; the remaining copies of the Offeror's Administrative Proposal may contain photocopies of the signature. Except as otherwise permitted under Section 2.1(6), Bid Deviations, the Offeror must accept the terms and conditions as set forth in these Specifications, and Appendices A, B, and C, and agree to enter into a Contract with the Department containing, at a minimum, the terms and conditions identified in these Specifications and appendices as cited herein. If an Offeror proposes to include the services of a Subcontractor(s) or Affiliate(s), the Offeror must be required to assume responsibility for those services as "Prime Contractor." The Department will consider the Prime Contractor solely responsible for contractual matters.

4.2 Offeror Attestation Form

The Offeror must complete and submit an executed copy of the *Offeror Attestations Form* (Attachment 6) attesting that it meets or exceeds the criteria for eligibility to bid as set forth in Section 1 of these Specifications. A person legally authorized to represent the Offeror must execute this certification.

4.3 Subcontractors or Affiliates

The Offeror must complete the *Subcontractors or Affiliates* form (Attachment 9) to identify all Subcontractors or Affiliates**.** Subcontractors or Affiliates is defined as those contractors with whom the Offeror subcontracts to provide Project Services and incorporates as part of the Offeror's Project Management Team. For purposes of reporting in the *Subcontractors or Affiliates* form (Attachment 9), Subcontractors include all vendors who will provide $100,000 or more in Project Services over the term of the

Contract that results from these Specifications, as well as any vendor who will provide Project Services in an amount lower than the $100,000 threshold, and who is a part of the Offeror's Project Management Team. For each Subcontractor identified, the Offeror must complete and submit the *Subcontractors or Affiliates* form (Attachment 9) and indicate whether or not, as of the date of the Offeror's Proposal, a subcontract has been executed between the Offeror and the Subcontractor for services to be provided by such subcontractor relating to the Specifications. For the purpose of these Specifications, Affiliate is defined as 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. On the *Subcontractors or Affiliates* form (Attachment 9), the Offeror must:

1. Mark the applicable box in Attachment 9 if the Offeror will not be subcontracting with any Subcontractor(s) or Affiliate(s) to provide Project Services.

2. Indicate whether or not, as of the date of the Offeror's Proposal, a subcontract (or shared services Contract) has been executed between the Offeror and the Subcontractor or Affiliate for services to be provided by the Subcontractor or Affiliate relating to these Specifications.

3. Provide a brief description of the services to be provided by the Subcontractor or Affiliate.

4. Provide a description of any current relationships with such Subcontractor or Affiliate and the clients/projects that the Offeror and Subcontractor or Affiliate are currently servicing under a formal legal Contract or arrangement, the date when such services began and the status of the Project.

5. The HMO must provide all *JLMC Contact Members* (Attachment 13) with notification of changes in Subcontractors within thirty (30) days of such changes becoming final.

4.4 New York State Standard Vendor Responsibility Questionnaire

The Offeror must complete and submit an executed copy of the New York State Vendor Responsibility Questionnaire. A person legally authorized to represent the Offeror must execute the questionnaire. The questionnaire must be completed by all Subcontractors as defined above.

The Department recommends each Offeror file the required Questionnaire online via the New York State VendRep System. To use the VendRep System, please refer to https://www.osc.state.ny.us./vendors/index.htm.

By submitting a Proposal, the Offeror agrees to fully and accurately complete the Questionnaire. The Offeror acknowledges that the State's execution of the Contract will be contingent upon the State's determination that the Offeror is responsible, and that the State will be relying upon the Offeror's responses to the Questionnaire when making its responsibility determination. The Offeror agrees that if it is found by the State that the Offeror's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Department may terminate the Contract. In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

4.5 New York State Tax Law Section 5-a

Tax Law § 5-a requires certain Offerors awarded state Contracts for commodities, services and technology valued at more than $100,000 to certify to New York State Department of Taxation and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to Contracts where the total amount of such Offerors' sales delivered into New York State is in excess of $300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any Affiliates and subcontractors whose sales delivered into New York State exceeded $300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

An Offeror is required to file the completed and notarized Form ST-220-CA with the Department certifying that the Offeror filed the ST-220-TD with DTF. The Offeror should complete and return the certification forms within five (5) Business Days from the date of request (if the forms are not completed and returned with bid submission). Failure to make either of these filings may render an Offeror non-responsive and non-responsible. The Offeror must take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

Website links to the Offeror certification forms and instructions are provided below.

1. Form ST-220-TD must be filed with and returned directly to DTF and can be found at http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf. Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with DTF. If the information changes for the Offeror, its Affiliate(s), or its subcontractor(s), a new Form ST-220-TD must be filed with DTF.

1. Form ST-220-CA must be submitted to the Department. This form provides the required certification that the Offeror filed the ST-220-TD with DTF. This form can be found at http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf

4.6 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, the selected Offeror and 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 *Compliance with NYS Workers' Compensation Law* (Attachment 10). Any questions relating to either workers' compensation or disability benefits coverage should be directed to the New York State Workers' Compensation Board, Bureau of Compliance at 518-486-6307. Useful information may also be found on their website: http://www.wcb.ny.gov.

Submission of the proof of workers' compensation and disability benefits insurance coverage is required at the time of Proposal submission. Failure to provide verification of either of these types of insurance coverage with the Offeror's Administrative Proposal may be grounds for disqualification of an otherwise successful Proposal.

To the extent that the Offeror is proposing the use of Subcontractors or Affiliates, the Offeror must verify for the Department, on forms authorized by the New York State Workers' Compensation Board, the fact that the Subcontractors or Affiliates are properly insured or are otherwise in compliance with the insurance provisions of the WCL.

4.7 Insurance Requirements

Prior to the start of work the Offeror shall procure, at its sole cost and expense, and shall maintain in force at all times during the term of any Contract resulting from these Specifications, policies of insurance as required by this section, written by companies that have an A.M. Best Company rating of "A-," Class "VII" or better. In addition, companies writing insurance intended to comply with the requirements of this Contract should be licensed or authorized by the New York State Department of Financial Services to issue insurance in the State of New York. The Department may, in its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when certificates and/or other policy documents are accompanied by a completed Excess Lines Association of New York (ELANY) affidavit or other documents demonstrating the company's strong financial rating. If, during the term of a policy, the carrier's A.M. Best rating falls below "A-," Class "VII," the insurance must be replaced, on or before the renewal date of the policy, with insurance that meets the requirements above. These policies must be written in accordance with the requirements of the paragraphs below, as applicable.

An Offeror shall deliver to the Department evidence of the insurance required by these Specifications and any Contract resulting from these Specifications in a form satisfactory to the Department. Policies must be written in accordance with the requirements of the paragraphs below, as applicable. While acceptance of insurance documentation shall not be unreasonably withheld, conditioned or delayed, acceptance and/or approval by the Department does not, and shall not be construed to, relieve an Offeror of any obligations, responsibilities or liabilities under these Specifications or any Contract resulting from these Specifications.

The Offeror shall not take any action or omit to take any action that would suspend or invalidate any of the required coverages during the term of any Contract resulting from these Specifications.

1. General Conditions

a. All policies of insurance required by this Solicitation or any Contract resulting from these Specifications shall comply with the following requirements:

i. Coverage Types and Policy Limits. The types of coverage and policy limits required from the selected Offeror are specified in paragraph 12. Specific Coverages and Limits below.

ii. Policy Forms. Except as may be otherwise specifically provided herein or agreed to in any Contract resulting from these Specifications, all policies of insurance shall be written on an occurrence basis.

iii. Certificates of Insurance/Notices. The selected Offeror shall provide the Department with a Certificate or Certificates of Insurance, in a form satisfactory to the Department, as detailed below, and pursuant to the timelines set forth in Section 11 below. Certificates should reference the Solicitation or award number and shall name the New York State Department of Civil Service, Agency Building 1, Empire State Plaza, Albany, NY 12239, as the certificate holder.

b. Certificates of Insurance shall:

i. Be in the form acceptable to the Department and in accordance with the New York State Insurance Law (e.g., an ACORD certificate);

ii. Disclose any deductible, self-insured retention, aggregate limit or any exclusion to the policy that materially changes the

coverage required by this Solicitation or any Contract resulting from this Solicitation;

iii. Be signed by an authorized representative of the insurance carrier of the referenced insurance carriers; and

iv. Contain the following language in the Description of Operations / Locations / Vehicles section of the Certificate or on a submitted endorsement: Additional insured protection afforded is on a primary and non-contributory basis. A waiver of subrogation is granted in favor of the additional insureds.

c. Only original documents (Certificates of Insurance and any endorsements and other attachments) or electronic versions of the same that can be directly traced back to the insurer, agent or broker via e-mail distribution or similar means will be accepted.

The Department generally requires an Offeror to submit only certificates of insurance and additional insured endorsements, although the Department reserves the right to request other proof of insurance. An Offeror should refrain from submitting entire insurance policies, unless specifically requested by the Department. If an entire insurance policy is submitted but not requested, the Department shall not be obligated to review and shall not be chargeable with knowledge of its contents. In addition, submission of an entire insurance policy not requested by The Department does not constitute proof of compliance with the insurance requirements and does not discharge an Offeror from submitting the requested insurance documentation.

2. Primary Coverage

All liability insurance policies shall provide that the required coverage shall be primary and non-contributory to other insurance available to the Department and their officers, agents, and employees. Any other insurance maintained by the Department and their officers, agents, and employees shall be excess of and shall not contribute with the Offeror's insurance. Insurance policies that remove or restrict blanket contractual liability located in the "insured contract" definition (as stated in Section V, Number 9, Item f in the Insurance Services Offices (ISO) Commercial General Liability (CGL) policy) so as to limit coverage against Claims that arise out of the work, or that remove or modify the "insured contract" exception to the employers liability exclusion, or that do not cover the Additional Insured for Claims involving injury to employees of the Named Insured or subcontractors, are not acceptable.

3. Breach for Lack of Proof of Coverage

The failure to comply with the insurance requirements at any time during the term of any Contract resulting from this Solicitation shall be considered a breach of the terms of any Contract resulting from this Solicitation and shall allow the Department and their officers, agents, and employees to avail themselves of all remedies available under any Contract resulting from this Solicitation, at law or in equity.

4. Self-Insured Retention/Deductibles

Certificates of Insurance must indicate the applicable deductibles/self-insured retentions for each listed policy. Deductibles or self-insured retentions above $100,000.00 are subject to approval from the Department. Such approval shall not be unreasonably withheld, conditioned or delayed. An Offeror shall be solely responsible for all claim expenses and loss payments within the deductibles or self-insured retentions. If the Offeror is providing the required insurance through self-insurance, evidence of the financial capacity to support the self-insurance program along with a description of that program, including, but not limited to, information regarding the use of a third-party administrator shall be provided upon request.

5. Subcontractors

Prior to the commencement of any work by a Subcontractor, the Offeror shall require such Subcontractor to procure policies of insurance as required by this section and maintain the same in force during the term of any work performed by that Subcontractor. An Additional Insured Endorsement (ISO coverage form CG 20 38 04 13), or the equivalent, evidencing such coverage shall be provided to the Offeror prior to the commencement of any work by a subcontractor and pursuant to the timelines set forth in Section 4.7(11), as applicable, and shall be provided to the Department upon request. For subcontractors that are self-insured, the subcontractor shall be obligated to defend and indemnify the above-named additional insureds with respect to Commercial General Liability and Business Automobile Liability, in the same manner that the subcontractor would have been required to pursuant to this section had the subcontractor obtained such insurance policies.

6. Waiver of Subrogation

For all liability policies, the Offeror shall cause to be included in its policies insuring against loss, damage or destruction by fire or other insured casualty a waiver of the insurer's right of subrogation against the Department and their officers, agents, and employees, or, if such waiver is unobtainable (i) an express Contract that such policy shall not be invalidated if the Offeror waives or has waived before the casualty, the right of recovery against the Department and their officers, agents, and employees or (ii) any other form of permission for the release of the Department any entity authorized by law or

regulation to use any Contract resulting from this Solicitation and their officers, agents, and employees. A Waiver of Subrogation Endorsement shall be provided upon request. A blanket Waiver of Subrogation Endorsement evidencing such coverage is also acceptable.

7. Additional Insured

The Offeror shall cause to be included in each of the liability policies required below coverage for on-going and completed operations naming as additional insureds (via ISO coverage forms CG 20 10 04 13 or 20 38 04 13 and CG 20 37 04 13 and form CA 20 48 10 13, or a form or forms that provide equivalent coverage): the Department and their officers, agents, and employees. An Additional Insured Endorsement evidencing such coverage shall be provided to the Department pursuant to the timelines set forth in Section 11 below. A blanket Additional Insured Endorsement evidencing such coverage is also acceptable. For Offerors who are self-insured, the Offeror shall be obligated to defend and indemnify the above-named additional insureds with respect to Commercial General Liability and Business Automobile Liability, in the same manner that the Offeror would have been required to pursuant to this Attachment had the Contractor obtained such insurance policies.

8. Excess/Umbrella Liability Policies

Required insurance coverage limits may be provided through a combination of primary and excess/umbrella liability policies. If coverage limits are provided through excess/umbrella liability policies, then a Schedule of underlying insurance listing policy information for all underlying insurance policies (insurer, policy number, policy term, coverage and limits of insurance), including proof that the excess/umbrella insurance follows form must be provided upon request.

9. Notice of Cancellation or Non-Renewal

Policies shall be written so as to include the requirements for notice of cancellation or non-renewal in accordance with the New York State Insurance Law. Within five (5) business days of receipt of any notice of cancellation or non-renewal of insurance, the Offeror shall provide the Department with a copy of any such notice received from an insurer together with proof of replacement coverage that complies with the insurance requirements of this Solicitation and any Contract resulting from this Solicitation.

10. Policy Renewal/Expiration

Upon policy renewal/expiration, evidence of renewal or replacement of coverage that complies with the insurance requirements set forth in this Solicitation and any Contract resulting from this Solicitation shall be delivered

to the Department. If, at any time during the term of any Contract resulting from this Solicitation, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in this Solicitation or any Solicitation and any Contract resulting from this Solicitation, or proof thereof is not provided to the Department, the Offeror shall immediately cease work. The Offeror shall not resume work until authorized to do so by the Department.

11. Deadlines for Providing Insurance Documents after Renewal or Upon Request

As set forth herein, certain insurance documents must be provided to the Department contact identified in the Contract Award Notice after renewal or upon request. This requirement means that the Offeror shall provide the applicable insurance document to the Department as soon as possible but in no event later than the following time periods:

a. For certificates of insurance: 5 business days from request or renewal, whichever is later;

b. For information on self-insurance or self-retention programs: 15 calendar days from request or renewal, whichever is later;

c. For other requested documentation evidencing coverage: 15 calendar days from request or renewal, whichever is later;

d. For additional insured and waiver of subrogation endorsements: 30 calendar days from request or renewal, whichever is later; and

e. For notice of cancellation or non-renewal and proof of replacement coverage that complies with the requirements of this section: 5 business days from request or renewal, whichever is later.

Notwithstanding the foregoing, if the Offeror shall have promptly requested the insurance documents from its broker or insurer and shall have thereafter diligently taken all steps necessary to obtain such documents from its insurer and submit them to the Department, the Department shall extend the time period for a reasonable period under the circumstances, but in no event shall the extension exceed 30 calendar days.

12. Specific Coverage and Limits

a. Commercial General Liability

Commercial General Liability Insurance, (CGL) shall be written on the current edition of ISO occurrence form CG 00 01, or a substitute form

providing equivalent coverage and shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal & advertising injury, cross liability coverage, and liability assumed in a contract (including the tort liability of another assumed in a contract). Policy shall include bodily injury, property damage, and broad form contractual liability coverage. The limits under such policy shall not be less than the following:

i. Each Occurrence – $2,000,000

ii. General Aggregate – $2,000,000

iii. Products/Completed Operations – $2,000,000

iv. Personal Advertising Injury – $1,000,000

v. Medical Expense – $5,000

Coverage shall include, but not be limited to, the following:

i. Premises liability;

ii. Independent contractors/subcontractors;

iii. Blanket contractual liability, including tort liability of another assumed in a contract;

iv. Defense and/or indemnification obligations, including obligations assumed under any Contract resulting from this Solicitation;

v. Cross liability for additional insureds; and

vi. Products/completed operations for a term of no less than 1 year, commencing upon acceptance of the work, as required by the Contract.

The CGL policy, and any umbrella/excess policies used to meet the “Each Occurrence” limits specified above, must be endorsed to be primary with respect to the coverage afforded the Additional Insureds, and such policy(ies) shall be primary to, and non-contributing with, any other insurance maintained by the Department. Any other insurance maintained by the Department shall be excess of and shall not contribute with the Contractor’s or Subcontractor’s insurance, regardless of the “Other Insurance” clause contained in either party’s policy(ies) of insurance, if applicable.

b. Business Automobile Liability Insurance

The Offeror shall maintain Business Automobile Liability Insurance in the amount of at least $2,000,000 each occurrence, covering liability arising out of any automobile used in connection with performance under any Contract resulting from these Specifications, including owned, leased, hired and non-owned automobiles bearing or, under the circumstances under which they are being used, required by the Motor Vehicles Laws of the State of New York to bear, license plates.

c. Professional Errors and Omissions Insurance

The Offeror shall maintain Professional Errors and Omissions (Professional Liability) in the amount of at least $1,000,000 each occurrence, for claims arising out of but not limited to delay or failure in diagnosing a disease or condition and alleged wrongful acts, including breach of Contract, bad faith and negligence. Such insurance shall apply to professional errors, acts, or omissions arising out of the scope of services.

i. Such insurance shall include coverage of all professionals and technical personnel whose actions could be considered “professional services” arising out of the scope of services as additional named insureds.

ii. If coverage is written on a claims-made policy, the Offeror warrants that any applicable retroactive date precedes the start of work; and that continuous coverage will be maintained, or an extended discovery period exercised, throughout the performance of the services and for a period of not less than three years from the time work under any Contract resulting from this Solicitation is completed. Written proof of this extended reporting period must be provided to the Department upon request.

iii. The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of any Contract resulting from this Solicitation.

d. Technology Errors & Omissions Insurance

The Offeror shall maintain, during the term of any Contract, Technology Errors and Omissions Insurance in the amount of at least $10,000,000 each occurrence, for claims for damages arising from computer related services including, but not limited to, the following: consulting, data processing, programming, system integration, hardware or software

development, installation, distribution or maintenance, systems analysis or design, training, staffing or other support services, any electronic equipment, computer software developed, manufactured, distributed, licensed, marketed or sold. The policy shall include coverage for third party fidelity including cyber theft if coverage is not met in a Data Breach and Privacy/Cyber Liability policy.

If the policy is written on a claims made basis, the Offeror must provide to the Department proof that the policy provides the option to purchase an Extended Reporting Period ("tail coverage") providing coverage for no less than one (1) year after work is completed in the event that coverage is cancelled or not renewed. This requirement applies to both primary and excess liability policies, as applicable.

e. Data Breach/Cyber Liability Insurance

An Offeror is required to maintain during the term of any Contract and as otherwise required herein, Data Breach and Privacy/Cyber Liability Insurance in the amount of at least $10,000,000 each occurrence, including coverage for failure to protect confidential information and failure of the security of the Offeror's computer systems or the Department systems due to the actions of the Offeror which results in unauthorized access to the Department or their data.

Said insurance shall provide coverage for damages arising from, but not limited to the following:

i. Breach of duty to protect the security and confidentiality of nonpublic proprietary corporate information;

ii. Personally identifiable nonpublic information (e.g., medical, financial, or personal in nature in electronic or non-electronic form);

iii. Privacy notification costs;

iv. Regulatory defense and penalties;

v. Website media liability; and

vi. Cyber theft of customer's property, including but not limited to money and securities.

SECTION 5: TECHNICAL PROPOSAL REQUIREMENTS

The purpose of Section 5 of the Specifications is to set forth the submissions required of the Offeror. The Offeror's Technical Proposal must contain responses to all required submissions from the Offeror in the format requested. Each Offeror's Technical Proposal will be evaluated based on the responses to the required submissions contained in Section 5 of these Specifications.

5.1 Plan Requirements

The Offeror must provide a copy of their current DOH Certificate of Authority to operate an HMO.

In addition, the Offeror must:

1. Submit a copy of the draft NYSHIP Dependent Eligibility Rider that the organization will file with the DFS. A draft *2020 NYSHIP Dependent Eligibility Rider* (Attachment 19) provides the NYSHIP dependent eligibility requirements. The HMO must include this Rider, approved by the DFS, as part of its proposed benefit package.

2. Indicate whether or not the HMO will be proposing a Medicare Advantage offering.

3. Provide a list of Counties and associated rating region configuration for the HMO's proposed 2021 NYSHIP Service Area. 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. However, additional participation in underserved counties is permissible during the term of the Contract. As of January 1, 2020, the Department, in consultation with the JLMC, considers Chemung, Schuyler, Rockland, Bronx, New York, Richmond, Queens, Kings, Nassau, and Suffolk counties in New York State to be underserved. The Department, in consultation with the JLMC currently defines an "underserved county" as a county in which, in addition to the Empire Plan, only one (1) NYSHIP HMO is offered. The definition of an "underserved county" is subject to change for any given plan year by the Department in consultation with the JLMC.

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

5. Describe the method that the Offeror uses 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 that the Offeror uses to

measure access. Submit a measurement of network access based on a "snapshot" of the network taken on March 31, 2020.

6. Describe how the Offeror monitors if Network Providers are accepting new patients into their practices. Indicate whether the Offeror's proposed access standards take into account Provider availability. If yes, describe how.

7. Describe the Offeror's approach for credentialing Network Providers; specify if the Offeror utilizes an external credentialing verification organization. When was this process last completed? What is the Offeror's process for confirming continuing compliance with credentialing standards? How often does the Offeror conduct a complete review? Include a description of how the Offeror monitors disciplinary actions by licensing agencies.

8. Explain the Offeror's approach to Network Provider fee schedules, including a description of the type(s) of financial arrangements that the Offeror has with each type of Provider (e.g., per diems, case rates, hourly rates, all-inclusive per diems covering Facility and Practitioner fees, etc.).

9. Indicate whether the Offeror ever incorporates pay-for-performance, shared savings, risk pools, risk sharing, and/or withholds into the payment methodologies for Network Providers. If yes, describe.

10. Describe any potential future plans to develop any of these care delivery models, including a timeline for implementation.

11. Provide an electronic copy of the most recent Health Plan Network (HPN) report submitted to the DOH indicating the HMO 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.

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

13. If the Offeror previously participated in NYSHIP, provide the total appeals filed by, or on behalf of NYSHIP Members for the previous plan year. Please provide the number of upheld, denied, and modified internal and external appeals. For internal appeals, HMOs must provide a breakdown of appeals by administrative and clinical categories.

14. State if the Offeror 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.

15. 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.

16. 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.

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

18. Describe the Offeror's Medicare Enrollment reporting process. This description must include how changes to Medicare eligibility and enrollment/ disenrollment is identified and the proposed frequency and method these enrollment changes will be provided to the Department. Additionally, an Offeror is encouraged to suggest/identify a methodology of preference that will facilitate the most accurate and frequent sharing of information.

19. Describe the Offeror's process for Enrolling Members into their Medicare Advantage that conforms to the requirements set forth in Chapter 2 of the MMCM.

20. Provide current status of the NCQA or URAC rating. Please provide the 5-point NCQA rating scale or the applicable URAC rating. The JLMC encourages an HMO to seek accreditation by nationally recognized organizations such as NCQA or URAC. If not currently accredited by NCQA or URAC, provide a detailed explanation why accreditation was not obtained.

21. HMOs (charitable organizations) that are not for profit entities must 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 must identify the specific category under which the charitable organization is exempt.

22. Outline what, if any, coverage is available to both Commercial and Medicare Members travelling outside of the United States. Please provide an overview for both Commercial and Medicare coverage as well as emergent, non-emergent and prescription drug services.

23. Provide an overview of the current telemedicine/telehealth program available to NYSHIP Members in the HMO. Explain if there is an out-of-pocket cost to Members for these services and what the cost would be. Indicate if the program is administered in house or if the HMO uses a subcontractor. Describe when Members have access to telemedicine/telehealth services.

24. Provide confirmation that the HMO will cover the diagnosis and treatment of Gender Dysphoria. Please also provide any Member cost-sharing or prior authorizations that may apply.

25. Complete the charts and answer the narrative questions as they appear on the *Prescription Drug Benefit Form* (Attachment 14).

26. 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. If the Certificate of Coverage is the same but for the prescription drug coverage, please submit only one copy of the Certificate and separate out the prescription drug coverage provisions.

27. 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. If the Evidence of Coverage is the same but for the prescription drug coverage, please submit only one copy of the Evidence of Coverage and separate out the prescription drug coverage provisions.

28. A completed *Commercial Benefits Chart* (Attachment 35) and *Medicare Benefits Chart* (Attachment 36) for both Commercial and Medicare Advantage Plans, as applicable, citing where each of the named benefits proposed for 2021 can be found in Contract or rider language. All Contracts and/or riders relating to the 2021 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.

5.2 Member Communication Material Requirements

The Offeror must:

1. Submit drafts of the Cover Letter for the Member communications materials mailing to HMO Members, federally mandated Summary of Benefits and Coverage (SBC) and Schedule of Benefits, in both hard copies and PDF with their Proposals. In addition, those HMOs that participated in NYSHIP in 2020 are required to submit drafts of the Side by Side Comparison of Benefits in both hard copies and PDF with their Proposals. HMOs that did not participate in NYSHIP in 2020 will not be required to furnish the Side by Side Comparison with their

Proposals.

2. The Offeror must provide a list of wellness programs/activities held or scheduled for 2020 and a summary of planned activities for 2021 using the Wellness Programs/Activities chart (Attachment 15).

3. The Offeror must provide a list of its current five largest employer groups in descending order by number of contracts using the *Current Five Largest Employer Groups* chart (Attachment 16).

4. Federally required Summary of Benefits and Coverage (SBC) for the proposed benefit package offered through NYSHIP. If the final 2021 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, 2020.

5. Additional Member Communication Materials to Members for 2021 – Cover Letters, Marketing Materials. Refer to Section 3.6 of these Specifications for specific details. To ensure all Members 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 Members by October 21, 2020.

6. Choices Page, for both Commercial and Medicare Advantage Plans, as applicable. HMOs will have ten business days to complete their HMO e-page(s), after which time, access will be denied. All HMOs submitting Proposals will be required to access a Department online data interface (HMO ePage) through which plan benefit details will be electronically submitted to the Department. 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. [**Note:** HMOs will ONLY be granted access to the Department's online data interface with their ePage if they have completed and submitted an affirmative *Notice of Intent* (Attachment 28) to participate in the 2021 NYSHIP plan year. The *Notice of Intent* will only be considered valid if it is sent to both the Department and the *JLMC Contact Members* (Attachment 13).]

   HMOs that participate in NYSHIP during 2020 will be able to edit selected fields of their 2021 Choices page content in the electronic templates to accurately describe plan benefits for the 2021 Plan Year. HMOs that did not participate in NYSHIP during 2020 will access blank electronic templates to electronically submit their Choices page information.

   The Department's 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 for accuracy via

e-mail from the Communications Unit. Benefits described on an HMO's Choices pages will be binding upon such HMO, even in the event of erroneous oversight during such review.

7. Schedule of Benefits required for Commercial Plan and Medicare Advantage Plan enrollees, if applicable. [**Note**: If this is part of the Offeror's Certificate of Coverage and/or Evidence of Coverage, indicate page numbers where this information can be found].

8. Side by Side Comparison of Benefit Changes 2020 to 2021 (document must be titled as such) identifying changes from 2020 (current year) to 2021 (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 Members 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 2020. See *SAMPLE Side-by-Side Comparison* (Attachment 25).

9. Listing of Certificate/Group Contract, Riders and/or Amendments (see *SAMPLE Contract and Rider* Summary (Attachment 30)). Include both Commercial HMO and Medicare Advantage Plan documents.

5.3 Website Access

1. In accordance with Section 3.9 of these Specifications, the Offeror must provide the following:

    a. The website address to the online prescription drug formulary that the Offeror proposes for the NYSHIP plan;

    b. The process by which JLMC Members obtain the user IDs and passwords necessary to access the HMO website to view applications available to Members other than protected health information.

    c. For the Provider search, provide a copy of the message that would be returned if a Member entered a zip code outside of the HMOs approved NYSHIP service area.

SECTION 6: FINANCIAL PROPOSAL

An Offeror is not required to include a Financial Proposal in their submission for these Specifications.

SECTION 7: EVALUATION AND SELECTION CRITERIA

The Department intends to award Contracts to each Offeror whose Proposal meets the Minimum Mandatory Requirements outlined in Section 1.5 of these Specifications.

7.1 Administrative Proposal Evaluation

Proposals determined by the Department to satisfy the submission requirements set forth in Section 4 of these Specifications will be reviewed by an evaluation team composed of staff from the Department. An Offeror's Proposal shall not be considered for award until the Offeror submits a *Formal Offer Letter* (Attachment 3) and an *Offeror Attestations Form* (Attachment 6).

7.2 Technical Proposal Evaluation

The Department, in coordination with the JLMC will verify that an Offeror has a Certificate of Authority issued by the DOH. If the Offeror's proposal meets this requirement, it will be considered for an award.

7.3 Method of Award

The Department, in coordination with the JLMC, intends to award Contracts to all Offerors whose Proposals meet the Administrative and Technical Proposal Requirements.

SECTION 8: LEGAL TERMS AND CONDITIONS

The Offeror that is determined to provide the best value to the Department shall be notified of its conditional award of a Contract subject to the successful development of a Contract. The resulting Contract shall incorporate the requirements set forth in the Specifications. Additional terms and conditions not already addressed in the Specifications are set forth below.

1. The Department shall establish the premium rates to be paid to the Offeror during the term of Contract resulting from these Specifications. The premium payments made by the Department to the Offeror based on the established rates, shall be the sole and exclusive payment for all Project Services required by the Contract.

2. The Department shall make premium payments to the Contractor on a monthly basis, starting with the Effective Date of the Contract resulting from these Specifications. The amount of premium payment for each monthly period shall be calculated by multiplying the number of Enrollees enrolled in the Plan by the premium rate in effect for the respective types of coverage.

3. Use and Disclosure of Protected Health Information

    a. The Offeror acknowledges that the Offeror is a "Business Associate" as that term is defined in the HIPAA implementing regulations at 45 CFR 160.103. of the Department as a consequence of the Offeror's provision of Project Services on behalf of the Department within the context of the Offeror's performance under the resulting Contract and that the Offeror's provision of Project Services will involve the disclosure to the Offeror of individually identifiable health information from the Department or other service providers on behalf of the Department, as well as the Offeror's disclosure to the Department of individually identifiable health information as a consequence of the Project Services performed under the resulting Contract. As such, the Offeror, as a Business Associate, will be required to comply with the provisions of this Section.

    b. For purposes of this Section, 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 the resulting Contract, PHI may be received by the Offeror from the Department or may be created or received by the Offeror on behalf of the Department in the Offeror's capacity as a Business Associate. All PHI

received or created by the Offeror in the Offeror's capacity as a Business Associate and as a consequence of its performance under the resulting Contract is referred to herein collectively as "Department's PHI."

c. The Offeror 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 Offeror further acknowledges that the Department has designated NYSHIP and the Empire Plan as an Organized Health Care Arrangement (OHCA), respectively. The Offeror further acknowledges that (i) the Offeror is a HIPAA "Business Associate" of the group health plans identified herein as "covered entities" as a consequence of the Offeror's provision of certain services to and/or on behalf of the Department as administrator of the "covered entities" within the context of the Offeror's performance under the resulting Contract, and that the Offeror's provision of such services may involve the disclosure to the Offeror of individually identifiable health information from the Department or from other parties on behalf of the Department, and also may involve the Offeror's disclosure to the Department of individually identifiable health information as a consequence of the services performed under the resulting Contract; and (ii) Contactor is a "covered entity" under HIPAA in connection with its provision of certain services under the resulting Contract. To the extent Offeror acts as a HIPAA "Business Associate" of the group health plans identified as "covered entities", the Offeror shall adhere to the requirements as set forth herein. All consents and/or authorizations, if any, required for Offeror to perform the services hereunder and for the use and disclosure of information, including the Department's PHI, as permitted under the resulting Contract have or will be obtained from Enrollees and or Members.

d. Permitted Uses and Disclosures of the Department's PHI: The Offeror may create, receive, maintain, access, transmit, use and/or disclose the Department's PHI solely in accordance with the terms of the resulting Contract. In addition, the Offeror may use and/or disclose the Department's PHI to provide data aggregation services relating to the health care operations of the Department. Further, the Offeror may use and disclose the Department's PHI for the proper management and administration of the Offeror if such use is necessary for the Offeror's proper management and administration or to carry out the Offeror's legal responsibilities, or if such disclosure is required by law or the Offeror 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 Offeror of any instances of which it is aware in which the confidentiality of the information has been breached. Additionally, the Offeror may use and/or disclose the Department's PHI, as appropriate: (i) for treatment, payment and health care operations as described in 45 CFR Section 164.506(c)(2), (3) or (4); and (ii) to de-identify the information or create a limited data set in accordance with 45 CFR §164.514, which de-identified information or limited data set may, consistent with Section 8(3)(e), below, be used and disclosed by Offeror only as agreed to in writing by the Department and permitted by law.

e. Nondisclosure of the Department's PHI: The Offeror shall not create, receive, maintain, access, transmit, use or further disclose the Department's PHI otherwise than as permitted or required by the resulting Contract or as otherwise required by law. The Offeror shall limit its uses and disclosures of PHI when practicable 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.

f. Safeguards: The Offeror shall use appropriate, documented safeguards to prevent the use or disclosure of the Department's PHI otherwise than as provided for in the resulting Contract. The Offeror shall maintain a comprehensive written information security program that includes administrative, technical, and physical safeguards that satisfy the standards set forth in the HIPPA Security Rule at 45 C.F.R §§164.308, 164.310, and 164.312, along with corresponding policies and procedures, as required by 45 C.F.R. § 164.316, appropriate to the size and complexity of the Offeror'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, accesses, or that it transmits on behalf of the Department pursuant to the resulting Contract to the same extent that such electronic PHI would have to be safeguarded if created, received, maintained, accessed or transmitted by a group health plan identified herein.

g. Breach Notification:

In addition to the Disclosure of Breach requirements specified in Appendix B, the following provisions shall apply:

i. Reporting: The Offeror shall report to the Department any breach of unsecured PHI, including any use or disclosure of the Department's PHI otherwise than as provided for by the resulting Contract, of which the Offeror becomes aware. An acquisition,

access, transmission, use or disclosure of the Department's PHI that is unsecured in a manner not permitted by HIPAA or the resulting Contract is presumed to be a breach unless the Offeror demonstrates that there is a low probability that Department's PHI has been compromised based on the Offeror's risk assessment of at least the following factors: (i) the nature and extent of Department's PHI involved, including the types of identifiers and the likelihood of re-identification; (ii) the unauthorized person who used Department's PHI or to whom the disclosure was made; (iii) whether Department's PHI was actually acquired or viewed; and (iv) the extent to which the risk to Department's PHI has been mitigated.

ii. Required Information: In addition to the information required in Appendix B, Disclosure of Breach, the Offeror shall provide the following information to the Department within in the time period identified in Appendix B, Disclosure of Breach, except when, despite all reasonable efforts by the Offeror to obtain the information required, circumstances beyond the control of the Offeror necessitate additional time. Under such circumstances, the Offeror 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:

1) the date of the breach incident;

2) the date of the discovery of the breach;

3) a brief description of what happened;

4) a description of the types of unsecured PHI that were involved;

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

6) a brief description of what the Offeror is doing to investigate the breach, to mitigate harm to individuals and to protect against any further breaches; and

7) any other details necessary to complete an assessment of the risk of harm to the individual.

iii. The Offeror will be responsible to provide 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 of the United States Department of Health and Human Services and the media, as required by 45 CFR Part 164.

iv. The Offeror 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.

v. The Offeror shall mitigate, to the extent practicable, any harmful effects from any use or disclosure of PHI by the Offeror not permitted by the resulting Contract.

h. Associate's Agents: The Offeror shall require all of its agents or Subcontractors to whom it provides the Department's PHI, whether received from the Department or created or received by the Offeror on behalf of the Department, to agree, by way of written Contract or other written arrangement, to the same restrictions and conditions on the access, use, and disclosure of PHI that apply to the Offeror with respect to the Department's PHI under the resulting Contract.

i. Availability of Information to the Department: The Offeror shall make available to the Department such information and documentation as the Department may require regarding any disclosures of PHI by the Offeror to fulfill the Department's obligations to provide access to, provide a copy of, and to account for disclosures of the Department's PHI in accordance with HIPAA and its implementing regulations. The Offeror shall provide such information and documentation within a reasonable amount of time of its receipt of the request from the Department. The Offeror must provide the Department with access to the Department's PHI in the form and format requested, if it is readily producible in such form and format; or if not, in a readable hard copy form or such other form and format as agreed to by the Parties, provided, however, that if the Department's PHI that is the subject of the request for access is maintained in one or more designated record sets electronically and if requested by the Department, the Offeror must provide the Department with access to the requested PHI in a readable electronic form and format.

j. Amendment of the Department's PHI: The Offeror 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 Offeror shall, as directed by the Department, incorporate any amendments to the

Department PHI into copies of such Department PHI maintained by the Offeror.

k. Internal Practices: The Offeror 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 Offeror 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.

l. Termination

    i. This Contract may be terminated by the Department at the Department's discretion if the Department determines that the Offeror, as a Business Associate, has violated a material term of this Section. Data return and destruction upon Contract termination is governed by Information Security Requirements, Appendix C.

m. Indemnification: Notwithstanding the provisions in Appendix B, the Offeror agrees to indemnify, defend and hold harmless the State and the Department and its 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 Contract or from any acts or omissions related to this Contract by the Offeror or its employees, officers, subcontractors, agents or other Members of its workforce, without limitations. Accordingly, the Offeror 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 Offeror's acts or omissions hereunder. The Offeror's obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Contract. This section is not subject to the limitation of liability provisions of the Contract.

n. Miscellaneous:

    i. Survival: The respective rights and obligations of Business Associate and the "covered entities" identified herein under HIPAA and as set forth in this Section, USE AND DISCLOSURE

OF PROTECTED HEALTH INFORMATION, shall survive termination of the resulting Contract.

ii. 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, as of their respective compliance dates.

iii. Interpretation: Any ambiguity in the resulting Contract shall be resolved to permit covered entities to comply with HIPAA.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.

October 2019

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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 $25,000, 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 § 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, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. 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 (2 NYCRR § 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 Part 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 clause. 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 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)–(p)) 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, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5))) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

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 §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 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 § 5-a, if the contractor fails to make the certification required by Tax Law § 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: https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012

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.

27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

New York State Department of Civil Service
April 2020

APPENDIX B - STANDARD CLAUSES FOR ALL DEPARTMENT CONTRACTS

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1. Headings and Captions:

The headings or captions contained within the Contract 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 Contract or any provisions thereof.

2. Compliance with Laws:

Contractor warrants and represents that, throughout the term of the Contract, in the performance of its obligations under the Contract, it will: (i) comply with all applicable State and Federal laws, ordinances, rules and regulations and policies of any governmental entity; (ii) pay, at its sole expense, all applicable permits, licenses, tariffs, tolls and fees; and (iii) give all notices required by any laws, ordinances, rules, and regulations of any governmental entity.

3. Jurisdiction or Venue:

Any action, suit or proceeding to enforce any provision of, or based on any matter arising out of or in connection with this Contract shall be brought in any New York state court located in Albany County or any federal court located in the Northern District of the State of New York.

4. Summary of Policy and Prohibitions on Procurement Lobbying

State Finance Law §§139-j and 139-k impose certain restrictions on communications between the Department and Offerors during the procurement process. Offerors are restricted from making contact, from the earliest posting, on the Department's website, in a newspaper of general circulation, or in the procurement opportunities newsletter in accordance with Article four-C of the Economic Development Law, of written notice, advertisement or solicitation of a Request for Proposal, invitation for bids, or solicitation of proposals, or any other method provided for by law or regulation to solicit offers/bids through final award and approval of the procurement contract by the Department and, if applicable, the Office of the State Comptroller ("restricted period"), to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). A finding of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the Offeror shall be debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the OGS website: https://ogs.ny.gov/acpl.

5. Notice of Substantial Change in Contractor Status

In addition to the requirements of New York State Finance Law §138 (requiring the State's approval of subcontractors and assignments and/or conveyances), the Contractor shall notify the Department of any substantial change in the ownership or financial viability of the Contractor, its Affiliates, subsidiaries or divisions, or partners, in

writing immediately upon occurrence. “Substantial change” means: (i) sales, acquisitions, mergers or takeovers of the Contractor, its Affiliates, subsidiaries, divisions, or partners that result in a change in the controlling ownership or assets of such entity after the submission of the Bid or execution of Contract; (ii) entry of an order for relief under Title 11 of the United States Code; (iii) the making of a general assignment for the benefit of creditors; (iv) the appointment of a receiver of Contractor’s business or property or that of its Affiliates, subsidiaries or divisions, or partners; or action by Contractor, its Affiliates, subsidiaries or divisions, or partners under any State insolvency or similar law for the purposes of its bankruptcy, reorganization, or liquidation; or (v) court ordered liquidation of Contractor, its Affiliates, subsidiaries or divisions, or partners.

Upon the Department’s receipt of such notice, the Department shall have thirty (30) business days from the date of notice to review the information. The Contractor may not transfer the Contract to or among Affiliates, subsidiaries or divisions, or partners, or to any other person or entity, without the express written consent of the Department. In addition to any other remedies available at law or equity, the Department shall have the right to terminate the Contract, in whole or in part, for cause, if it finds, in its sole judgment, that such substantial change adversely affects the delivery of Services or is otherwise not in the best interests of the State.

6. Notice of Circumstances Expected to Adversely Affect Contractor’s Performance

The Contractor shall immediately notify Department upon learning of any situation that can reasonably be expected to adversely affect the delivery of Project Services under the Contract. If such notification is verbal, the Contractor shall follow such initial verbal notice with a written notice to Department within three (3) calendar days of Contractor’s becoming aware of the situation. The written notification shall include a description of the situation and a recommendation of a resolution.

7. Severability

In the event that one or more of the provisions of the Contract shall for any reason be declared unenforceable by a court of competent jurisdiction under the laws or regulations in force, such provision(s) shall have no effect on the validity of the remainder of the Contract, which shall then be construed as if such unenforceable provision(s) was never contained in the Contract.

8. Waiver of Breach

No term or provision of the Contract 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 Contract shall constitute consent to, a waiver of, or excuse for any other, different or subsequent breach. The rights, duties and remedies set forth in the Contract shall be in

addition to, and not in limitation of, rights and obligations otherwise available at law or equity. No delay or omission to exercise any right, power or remedy accruing to either party upon breach or default by the other under this Contract shall impair any such right, power or remedy.

9. Force Majeure

Neither Party to the Contract shall be liable or deemed to be in default for any delay or failure in performance under the Contract 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 Contract, or any other causes not reasonably foreseeable or beyond the control of a Party. Each Party is required to use best efforts to eliminate or minimize the effect of such events during performance of the Contract and to resume performance of the Contract upon termination or cessation of such events.

10. Modification of Contract

The Contract may be amended only by mutual written consent of the Parties and approved by the New York State Attorney General and Office of the State Comptroller, if required.

11. Change Request

At any time during the term of this Contract, the Department may make changes, subtractions or additions in any of the equipment, software, documentation, Project Services and/or other Deliverables within the general scope of work set forth in the Contract, consistent with pricing established under the terms of the Contract. All such changes shall be made using a mutually agreed upon form executed by the Parties and shall otherwise be in accordance with the terms and conditions of the Contract. If any such change causes an increase or decrease in pricing or the time required for the performance of the Contract, an equitable adjustment of the Contract amount and/or time of performance will be made on mutual agreement of the Parties, subject to the approval of the New York State Office of the State Comptroller and any applicable control agency, if required.

12. Piggybacking

Contractor acknowledges and agrees that, pursuant to State Finance Law § 163(10)(e), the New York State Office of General Services may authorize and approve purchases from contracts between Contractor and Department to other New York State agencies, authorities, the United States Government or any other state, with the concurrence of the Office of the State Comptroller and under appropriate circumstances.

13. No Third-Party Beneficiaries

Nothing contained in the Contract, expressed or implied, is intended to confer upon any person or corporation, other than the Parties hereto and their successors in interest and assigns, any rights or remedies under or by reason of the Contract.

14. Work Outside of Scope of the Contract

The Contractor must not perform work outside the scope of the Contract unless such work is authorized by a properly executed written amendment to the Contract, and if applicable, approved by the Office of the State Comptroller. Work not so authorized shall not be compensated.

15. Contract Payments

Payments for commodities received or Services rendered shall be in accordance with the Contract. All rates must be inclusive of any and all direct and indirect costs including contract administrator, clerical personnel, travel, computer charges, postage and all other expenses related to the engagement. The Department will not pay overtime rates for hours worked over 40 per week. The State's payment obligations shall be governed by the provisions of the New York State Finance Law ("SFL") Article 11-A.

The Contractor shall invoice the Department in accordance with the provisions set forth herein, for commodities or Services rendered, together with full supporting detail(s) to the State's satisfaction. Invoice must include the Contract number. Such invoice shall be emailed to accountspayable@ogs.ny.gov. The subject line should include the Invoice Number and the term "Department of Civil Service". If mailing a paper copy of the invoice, submit it to the following address:

New York State Department of Civil Service
DCS01
c/o NYS OGS BSC Accounts Payable
Building 5, 5th floor
1220 Washington Avenue
Albany, NY 12226-1900

16. Liability for Taxes

a) The Department represents that the purchases on behalf of the State of New York are not subject to any state or local sales or use taxes, or to federal excise taxes.

b) Contractor remains liable and solely responsible without exemption for social security, unemployment insurance, workers' compensation and other taxes and obligations to which Contractor may be subject to by law.

17. State’s Authority to Conduct Financial and Performance Audits

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 Project Services and any applicable State and federal statutory and regulatory authorities. The audit activity may include, but is not 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 Contract, and the review of any and all activities relating to the Contractor’s performance and administration of the Contract.

In addition to any requirements set forth in the Contract, the Contractor shall make available any documentation necessary to perform such reviews including the copying of the documentation. 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 Contract, Standards Clauses for All New York State Contracts, or any audit requirements related to the security of the Contractor’s systems.
Further, upon request by the State, the Contractor shall cooperate with the State, including the Office of the State Comptroller, in any investigation, audit, or other inquiry related to the Solicitation or the resulting Contract or any related litigation, at no cost to the State. This provision shall survive the termination of the Contract.

18. Independent Contractor

The Parties agree that the Contractor is an independent contractor, and the Contractor, its officers, employees, agents, consultants, contractors and/or subcontractors in the performance of the Contract shall act in an independent capacity and not as agents, officers or employees of the State or the Department. Neither the Contractor nor any subcontractor shall thereby be deemed an agent, officer, or employee of the State. The Contractor agrees, during the term of the Contract, 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 workers’ 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 Federal Insurance Contributions Act payments.

19. Subcontracting

If allowed in the solicitation, the Contractor may arrange for specified portions of its responsibilities to be subcontracted. The Contractor shall not in any way be relieved of any responsibility under the Contract by any subcontract. The Contractor shall be solely responsible to the Department for the acts or defaults of its Subcontractor(s) and of such Subcontractors' officers, agents, and employees, each of whom shall for this purpose, be deemed to be the agent or employee of the Contractor to the extent of its subcontract. Any deliverable provided or furnished by a Subcontractor shall be deemed for purposes of the Contract to be provided or furnished by the Contractor.
The Contractor shall inform each Subcontractor fully and completely of all provisions and requirements established by the Contract and enter into a written subcontract. Such subcontract shall include the functional equivalent of the Contract, and include such clauses:

- That the work performed by the Subcontractor must be in accordance with the terms and conditions of this Contract.
- That nothing contained in such subcontract shall impair the rights of the Department or the State.
- That nothing contained in the subcontract shall create any contractual relationship between the Subcontractor and the Department or the State.
- That the State and Department shall have the same authority to audit the records of all Subcontractors as it does those of the Contractor.
- That Subcontractor shall cooperate with any investigation, audit, litigation or other inquiry related to the Solicitation or the resulting Contract.
- That Subcontractor shall maintain and protect against any unauthorized disclosure of records with respect to work performed under the subcontract in the same manner as required of the Contractor
- The Contractor shall require that the Subcontractor must pass through all terms and conditions of the Contract, including but not limited to Appendix A, to any lower tier subcontractors.
- Unless waived by the Department, each subcontract 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 Subcontractor, as well as any amendments to said subcontract(s). This right shall not make the Department or the State a party to any subcontract or create any right, claim, or interest in the Subcontractor or proposed Subcontractor against the Department.

The Department reserves the right, at any time during the term of the Contract, to verify that the written subcontract between the Contractor and Subcontractor(s) is in compliance with all of the provision of this Contract. In addition to other remedies allowed by law, the Department reserves the right to terminate the Contract for cause if an executed subcontract does not contain all of the required provisions.

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 Subcontractor or which may affect the performance of the Contractor's duties under the Contract. Failure to disclose the identity of any and all Subcontractor(s) used by the Contractor as required hereunder may, at the sole discretion of the Department, result in a disqualification of the Subcontractor, if not immediately cured, or may result in termination of the Contract for cause. The Contractor shall pay all Subcontractors for and on account of Project Services and/or Deliverables provided by such Subcontractors in accordance with the terms of their respective subcontracts. If and when required by the Department, the Contractor shall submit satisfactory evidence that it has made such payment. The Contractor shall, within five (5) Business Days of the Department's written request, file promptly with the Department a copy of any subcontract providing Services for the Contract.

20. Contractor Staff

All Contractor Staff performing work under the Contract must: meet or exceed the technical and training qualifications set forth in the Contract; comply with all security and administrative requirements of the Department; possess the necessary qualifications, training, licenses, and permits as may be required within the jurisdiction where the work will be provided or performed; and be legally entitled to work in such jurisdiction. All persons, corporations, or other legal entities that perform Project Services under the Contract on behalf of Contractor shall, in performing the Project Services, comply with all applicable Federal and State laws concerning employment in the United States. Contractor Staff may be required to execute a Department Nondisclosure Agreement, either before or upon arrival at the work a State facility or, if in Department's sole discretion, the Contractor's Staff will otherwise have access to critical State Networks, equipment or data.

The Department, in its sole discretion, may require the Contractor to remove from interaction with the State, or may refuse access to State systems and facilities or require removal from any State facility any Contractor Staff performing work under this Contract that the Department determines poses a security risk, has a work performance that the Department finds inadequate or unacceptable, or otherwise fails to meet the Department's business requirements or expectations. The Contractor shall not assign such removed person to any aspect of the Contract without the State's written consent. Such action by the Department shall not relieve the Contractor of the obligation to perform all work in compliance with the Contract terms.

For reasons of safety and public policy, the use of illegal drugs and/or alcoholic beverages by the Contractor Staff shall not be permitted while performing any phase of Contract work.

The State shall not be liable for any expense incurred by the Contractor Staff for any parking or towing fees or as a consequence of any traffic infraction or parking violations attributable to Contractor Staff.

21. Onboarding and Suitability Determinations

The Contractor, including all Contractor Staff who work on the Contract, must comply with all State and Federal onboarding and security clearance requirements, at its own expense.

Contractor is responsible, at its own expense, for making suitability determinations on its Contractor Staff prior to the staff member performing any work in connection with this Contract. For purposes of this provision, a "suitability determination" is a determination that there are reasonable grounds to believe that an individual will likely be able to perform the Contract requirements without undue risk to the interests of the State. Upon request of the State, the Contractor shall certify to the State that the suitability determinations required by this provision have been completed for all Contractor Staff performing work in connection with this Contract.

Failure of a security clearance or non-compliance with this provision will disqualify any Contractor Staff from performing any Services under the Contract. All expenses, including travel and lodging, associated with the onboarding and security clearance process, including fingerprinting of Contractor Staff, if required, are the responsibility of the Contractor and are not reimbursable.

If Contractor Staff have any lapse in work under the Contract, such individuals may be subject to all onboarding and security clearance requirements if they are returned to performing Project Services under the Contract.

The State also reserves the right to: (a)conduct a background check or otherwise approve any Contractor Staff performing work on this Contract or having access to Data; and (b) refuse access to, eject or require replacement of any personnel at the Department's discretion for any reason.

22. Separation of Duties

The Department requires the Contractor to follow security best practices by adhering to separation of job duties and limiting Contractor Staff access to Data to the minimum necessary to accomplish the intended purpose (i.e. job duties).

23. Dispute Resolution

Unless otherwise agreed to in writing by the Parties, any dispute raised by the Contractor concerning any question of fact or law arising under the Contract which is not disposed of by mutual agreement of the Parties shall be decided initially by the designee of the Commissioner ("Commissioner"). A copy of the written decision shall be furnished to the Contractor. The Parties shall proceed diligently with the performance of the Contract 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 Commissioner shall be final and conclusive unless, within ten (10) Days from the receipt of such decision, the Contractor furnishes the Commissioner a written appeal. In the event of an appeal, the Commissioner shall promptly review the initial decision, and confirm, annul, or modify it. The decision of the Commissioner 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 ("Article 78"). Pending final decision of any Article 78 proceeding, the Parties shall diligently perform the Contract in accordance with the Commissioner's decision.

24. Indemnification and Limitation of Liability

a. Indemnification:
Contractor shall be fully liable for the actions of its agents, officers, employees, partners, or subcontractors, and shall fully indemnify and save harmless the State, without limitation, from suits, actions, damages, and costs of every name and description relating to personal injury and damage to real or personal property caused by Contractor, its agents, officers, employees, partners, or subcontractors, if any, without limitation; provided however, that the Contractor shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the negligent act or negligent failure to act of the State.

Contractor shall indemnify, defend and hold the State harmless, without limitation, from any loss or damage to the State resulting from suits, actions, damages, and costs of every name and description resulting from any criminal acts committed by Contractor's officers, agents, employees, and subcontractors while providing Project Services under the Contract.
This section is not subject to the limitation of liability provisions of the Contract.

b. Indemnification for Intellectual Property Infringement:
Contractor shall indemnify, defend, and hold the State harmless, without limitation, from and against any and all damages, expenses (including reasonable attorneys' fees and legal fees), claims, judgments, liabilities, and costs which may be assessed against the State in any action for infringement of a United States Letter Patent, or of any copyright, trademark, trade secret, or other third-party proprietary right in relation to the Services, products, documentation or deliverables furnished or utilized by Contractor under this Contract, provided that the State shall give Contractor: (i) prompt written notice of any action, claim, or threat of infringement suit, or other suit; (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense; and (iii) assistance in the defense of any such action at the expense of Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, the State may require Contractor, at is sole expense, to submit such information and documentation, including formal patent attorney opinions, as the State shall require. This paragraph shall not apply to that portion of any infringement claim which results from a material modification by the State, without Contractor's approval, of any products, documentation or deliverables furnished or utilized by Contractor pursuant to this Contract.

Notwithstanding the foregoing, the State reserves the right to join such action, at its sole expense, when it determines that there is an issue involving a significant public interest. This section is not subject to the limitation of liability provisions of the Contract.

c. Limitation of Liability

For all other claims against the Contractor where liability is not otherwise set forth in the Contract as being "without limitation" or not subject to the limitation of liability provisions, and regardless of the basis on which the claim is made, Contractor's liability under the Contract for direct damages shall be limited to the greater of the following: (i) $500,000 (Five Hundred Thousand Dollars); or (ii) two (2) times the amounts paid to the Contractor under the Contract during the twelve (12) months of the contract term which precedes the giving of notice of the claim by the State. For this purpose, amounts paid shall include, but not be limited to, payments made electronically, by check, by offset, or by the application of credits from the Contractor to the State. Unless otherwise specifically enumerated herein, neither party shall be liable for any incidental, punitive, consequential, indirect or special damages of any kind which may result directly or indirectly from the performance of this Contract, including, without limitation, damages resulting from loss of use or loss of profit by the State, the Contractor, or by others, however caused and regardless of the theory of liability even if such party has been informed of the possibility of such damages.

d. No Indemnification by the State:

The State does not agree to any indemnification provisions that requires the State to indemnify or save harmless Contractor or third parties.

25. Warranties and Guarantees

a. Contract Deliverables: Contractor warrants and represents that the Services required by the solicitation and the Contract shall be performed or provided in accordance with all the terms and conditions, covenants, statements, and representations contained in the Contract. Contractor's failure to meet pre-defined service levels may result in a credit or chargeback in an amount pre- determined by the Parties.

b. Product Performance: Contractor hereby warrants and represents that Products acquired by the State under this Contract conform to the manufacturer's specifications, performance standards and Documentation and that the Documentation fully describes the proper procedure for using the Products.

c. Title and Ownership: Contractor warrants and represents that it has: (i) full ownership, clear title free of all liens; or (ii) the right to transfer or deliver specified license rights to any Products acquired by the State under the Contract. Contractor shall be solely liable for any costs of acquisition associated therewith. Contractor shall indemnify the State and hold the State harmless from any damages and liabilities (including reasonable attorneys' fees and costs) arising from any breach of Contractor's warranties as set forth herein.

d. Workmanship Warranty: Contractor warrants and represents that all Services and deliverables shall meet the completion criteria set forth in the Contract, and that Services will be provided in a professional and workmanlike manner in accordance with the highest applicable industry standards.

e. Personnel Eligible for Employment: Contractor warrants and represents that all personnel performing Services under this Contract are qualified to provide Services and eligible for employment in the United States and shall remain so throughout the term of the Contract. Contractor shall provide such proof of compliance as is required by Department.

f. Virus Warranty: The Contractor represents and warrants that any Product acquired by the Department does not contain any known viruses. Contractor is not responsible for viruses introduced at the Department's site by third parties who are not Contractor Staff.

g. Date/Time Warranty: Contractor warrants that Product furnished pursuant to this Contract shall, when used in accordance with the product documentation, 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 must perform as a package or system, this warranty shall apply to the Products as a system.

Where 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), Contractor warrants that Services shall be provided in an accurate and timely manner without interruption, failure or error due to the inaccuracy of 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. Contractor shall be responsible for damages resulting from any delays, errors or untimely performance resulting therefrom, including but not limited to the failure or untimely performance of such Services.

h. Additional Warranties: Where Contractor generally offers additional or more advantageous warranties than those set forth herein, Contractor shall offer or pass through any such warranties to the State.

i. No Limitation of Rights: The rights and remedies of the State provided in this clause are in addition to and do not limit any rights afforded to the State by any other clause of the Contract.

j. Survival of Warranties: All warranties contained in the Contract shall survive termination of the Contract.

k. No Implied Warranties: To the extent permitted by law, these warranties are exclusive and there are no other express or implied warranties or conditions, including warranties or conditions of merchantability and fitness for a particular purpose.

26. Ownership of and Title to Contract Deliverables

a. Contractor acknowledges that it is commissioned by the State to perform the Project Services detailed in the Contract which may include the development of intellectual property by Contractor, its Subcontractors, partners, employees or agents for the State ("Custom Products"). Unless otherwise specified in writing in the Contract, upon the creation of such Custom Products, Contractor hereby conveys, assigns and transfers to the State the sole and exclusive rights, title and interest in the Custom Products, whether preliminary, final or otherwise, including all trademark and copyrights. Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through 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 in performing Services under the Contract in the course of Contractor's business. The State 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 taking exclusive ownership and title to such Products. In such case, the State 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 in the Contract.

b. Ownership of and Title to Existing Software:

Title and ownership to existing software delivered by Contractor under the Contract that is normally commercially distributed by the Contractor or a third-party proprietary owner, whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products shall remain with Contractor or the third party. Effective upon acceptance, such existing software shall be licensed to the State and must, at a minimum, grant the State a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless Contractor advises the State as part of Contractor's proposal that adaptation will violate existing agreements or statutes and Contractor demonstrates such to the State's satisfaction) and distribute existing software to the State up to the license capacity stated in the Contract with all license rights necessary to fully effect the general business purposes stated in the

Solicitation. With regards to third party software, the Contractor shall be responsible for obtaining these rights at its sole cost and expense.

27. Confidentiality and Non-Disclosure

a. Confidentiality:
Except as may be required by applicable law or a court of competent jurisdiction, the Contractor, its officers, agents, employees, and subcontractors, if any, shall maintain strict confidence with respect to any "Confidential Information" to which the Contractor, its officers, agents, employees, and subcontractors, if any, have access. This requirement shall survive termination of the Contract. Contractor agrees that all officers, agents, employees and subcontractors, if any, shall be made aware of and shall agree to the terms of this Contract. Upon the request of the State or Department, all of Contractor's officers, agents, employees and subcontractors with access to Data shall cooperate in executing a written confidentiality/nondisclosure agreement and/or security addendum under applicable confidentiality and privacy laws, rules, and regulations or policies.

For purposes of the Contract, all data from the State of which Contractor, its officers, agents, employees, and subcontractors, if any, becomes aware during the Contract performance shall be deemed to be Confidential Information (whether oral, visual or written). Notwithstanding the foregoing, data that falls into any of the following categories shall not be considered Confidential Information:

i. information that is previously rightfully known to the receiving party without restriction on disclosure;
ii. 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
iii. information that is independently developed by Contractor without use of Confidential Information of the State.

In the event that it is necessary for Contractor to receive Confidential Information, which Federal or State statute or regulation prohibits from disclosure, Contractor hereby agrees it shall not retain a copy of such Confidential Information and shall either return or destroy, in accordance with the provisions of this Contract, all such Confidential Information when the purpose that necessitated its receipt by Contractor has been completed.

Notwithstanding the foregoing, if the return or destruction of the Confidential Information is not feasible, Contractor agrees to extend the contractual protections for as long as necessary to protect the Confidential Information and to limit any further use or disclosure of that Confidential Information.

Contractor agrees that it shall use all appropriate safeguards to prevent any unauthorized use or unauthorized disclosure of Confidential Information, which Federal or State statute or regulation prohibits from disclosure.

Contractor agrees that it shall immediately report to the Department the discovery of any unauthorized use or unauthorized disclosure of such Confidential Information in accordance with the Contract notification provisions. The Parties agree that a violation of this section shall be deemed a material breach of contract.

b. Non-disclosure: Except as otherwise required by law, Contractor shall not disclose Data to a third party. Except where expressly prohibited by law, Contractor shall promptly notify the Department of any subpoena, warrant, judicial, administrative or arbitral order of an executive or administrative agency or other governmental authority of competent jurisdiction (a "Demand") that it receives and which relates to or requires production of the information or data Contractor is processing or storing on the State's behalf. If Contractor is required to produce information or data in response to a Demand, Contractor will provide the Department with the information or data in its possession that it plans to produce in response to the Demand prior to production of such information or data. Except as otherwise required by law, Contractor shall provide the Department with reasonable time to assert its rights with respect to the withholding of such information or Data from production. If the State is required to produce information or data in response to a Demand, Contractor will, at the State's request and unless expressly prohibited by law, produce to the State any information or data in its possession that may be responsive to the Demand and shall provide assistance as is reasonably required for the State to respond to the Demand in a timely manner. The State acknowledges that Contractor has no responsibility to interact directly with the entity making the Demand. The Parties agree that the State's execution of this Contract, does not constitute consent to the release or production of Data or information.

Contractor agrees that access to and use of sensitive and Confidential Information is limited to authorized employees and legally designated agents, for authorized purposes only.

To the extent that Contractor, or Contractor Staff have access to Federal, State or local government Regulated Data pursuant to their responsibilities under the Contract, Contractor agrees that it will abide by the requirements of those Federal and State laws and regulations.

28. Freedom of Information Law

Disclosure of information related to this solicitation and the resulting Contract shall be permitted consistent with New York State laws, specifically the Freedom of Information Law (FOIL). The Department shall take reasonable steps to protect from public disclosure any records or portions thereof relating to this solicitation that are exempt from disclosure under FOIL. Information constituting trade secrets or critical infrastructure information for purposes of FOIL must be clearly marked and identified as

such by the Contractor upon submission in accordance with the solicitation provisions. If the Contractor intends to request an exemption from disclosure under FOIL, the Contractor shall at the time of submission, request the exemption in writing and provide an explanation of why the information should be exempted from disclosure pursuant to Public Officers Law § 87(2) of FOIL. Acceptance of the identified information by the Department does not constitute a determination that the information is exempt from disclosure under FOIL. Determinations as to whether the materials or information may be withheld from disclosure will be made in accordance with FOIL at the time a request for such information is received by the Department.

29. Data Ownership and Use

All Data is owned exclusively by the Department and will remain the property of the Department. Contractor is permitted to use Data solely for the purposes set forth in the Solicitation and resulting Contract, and for no other purpose. At no time shall the Contractor access, use, or disclose any Confidential Information (including personal, financial, health, or criminal history record information) for any other purpose. The Contractor is strictly prohibited from releasing or using Data or information for any purposes other than those purposes specifically authorized by the Department. Contractor agrees that Data shall not be distributed, used, repurposed, transmitted, exchanged or shared across other applications, environments, or business units of the contractor or otherwise passed to other contractors, agents, subcontractors or any other interested parties, except as expressly and specifically agreed to in writing by the Department.

30. Termination

I. In addition to the provisions set forth in Appendix A or elsewhere in this Contract, this Contract may be terminated as follows:

a. For Convenience:
By written notice, this Contract may be terminated at any time by the State for convenience upon sixty (60) calendar days written notice without penalty or other early termination charges due. If the Contract is terminated pursuant to this paragraph, the State shall remain liable for all accrued but unpaid charges incurred through the date of the termination.

b. For Cause:
The Contract may be terminated by the Department for cause upon the failure of the Contractor to comply with the terms and conditions of the Contract, provided that the Department shall give the Contractor written notice. Such written notice will specify the Contractor's failure and the termination of the Contract. Termination shall be effective no earlier than thirty (30) Calendar Days after receipt of such notice unless the Contractor, in the opinion of the Department, has cured such failure. Such

cure period may be extended by the Department in writing. The Contractor agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination without the prior written approval of the Department. 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 Contract.

c. For Suspension or Delisting of Contractor's Securities:
The State, in its sole discretion, may terminate the Contract or exercise such other remedies as shall be available under the Contract, at law or in equity if: the Contractor's securities are suspended or delisted by the New York Stock Exchange, the American Stock Exchange, or the NASDAQ, as applicable: 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.

d. For Vendor Responsibility Related Findings:
The Department may, in its sole discretion, terminate the Contract if it finds at any time during the Contract term that the Contractor is non-responsible, or that any information provided in the Vendor Responsibility Questionnaire submitted with Contractor's Bid was materially false or incomplete, or if the Contractor fails to timely or truthfully comply with Department's request to update its Vendor Responsibility Questionnaire.

e. Termination for Non-Responsibility:
Upon written notice to the Contractor, and after a reasonable opportunity to be heard with the appropriate Department officials, the Contract may be terminated by the Commissioner at the Contractor's expense where the Contractor is determined to be non-responsible. In such an event, the Commissioner may complete the contractual requirements in any manner s/he may deem advisable and pursue legal or equitable remedies for the Contractor's breach.

f. For Lack of Funds:
The Contract 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 is received, in writing, by the Contractor from the Department.

II. Mitigation of Costs:

The Contractor shall not undertake any additional or new obligations under this Contract on or after the receipt of notice of termination without the prior written approval of the State. On or after the receipt of a notice of termination and during the termination notice period, the Contractor shall take all commercially reasonable and prudent actions to mitigate additional costs to the State and close out any unnecessary State obligations or expenses which do not impact the level of service required by the Contractor under the Agreement.

31. Continuing Obligation to Remain Responsible

The Contractor shall at all times during the Contract 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, including the submission of an updated Vendor Responsibility Questionnaire.
The Contractor is required to promptly report to the Department any material changes in the information reported in its initial Vendor Responsibility Questionnaire.

32. Suspension of Work

The Department reserves the right to suspend any or all activities under the Contract, at any time, in the best interests of the State. In the event of such suspension, the Contractor will be given a formal written notice outlining the particulars of such suspension. Examples of the reasons for such suspension include but are not limited to, a budget freeze on State spending or declaration of emergency. Upon issuance of such notice, the Contractor shall comply with the suspension order. Contractor shall be paid for Services performed prior to suspension in accordance with the Contract. Such suspension will be lifted upon written notice to Contractor.
Nothing in this paragraph shall diminish the State's right to terminate the Contract as provided in the Contract.

33. Default

a. If either party breaches a material provision of this Contract and such breach remains uncured for a period of thirty (30) days after written notice thereof from the other party specifying the breach, then the other party may, at its option, terminate this Contract in accordance with the Termination clause and exercise such other remedies as shall be available under this Contract, at law and/or equity.

b. If, due to default that remains uncured for the period provided herein, a third party shall commence to perform Contractor's obligations under this Contract, 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 Services provided prior to any such date, and if any lump-sum payment has been made, the State shall be entitled to a pro-rata refund of such payment.

34. General Provisions as to Remedies

a. The Parties may exercise their respective rights and remedies at any time, in any order, to any extent, and as often as deemed advisable, without regard to whether the exercise of one right or remedy precedes, concurs with or succeeds the exercise of another. A single or partial exercise of a remedy shall not preclude a further exercise of the right or remedy or the exercise of another right or remedy from time to time. No delay or omission in exercising a right or remedy, or delay, inaction, or acquiescence to, an event otherwise constituting a breach or default under the Contract.

b. In addition to any other remedies available to the State under the Contract and state and federal law for Contractor's default, the State may choose to exercise some or all of the following:

i. Suspend, in whole or in part, payments due to Contractor under this Contract;
ii. Pursue equitable remedies to compel Contractor to perform;
iii. Apply Service Credits against amounts due and owing by the State under the Contract; or
iv. Require Contractor to cure deficient performance or perform the requirements of the solicitation at no charge to the State.

35. Cooperation with Third Parties

Upon request by the State, the Contractor shall fully cooperate with any third party designated by the State such as, but not limited to, other contractors or Subcontractors, including successor Contractors, retained by the State.

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 Contract 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. Contractor shall be authorized to provide copies of the Contract 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. Accessibility

a. Web Accessibility:
Any web-based information and applications development, or programming delivered pursuant to the Contract shall comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility of Web-Based Information and Applications as such policy may be amended, modified or superseded, which requires that State Agency web-based information and applications are accessible to persons with disabilities. Web-based information and applications must conform to New York State Enterprise IT Policy NYS-P08-005 as determined by quality assurance testing. Such quality assurance testing will be conducted by Contractor and the results of such testing must be satisfactory to Department before web-based information and applications will be considered a qualified deliverable under the Contract or Procurement.

b. Language Access for Individuals with Limited English Proficiency:
Executive Order 26 (EO 26), directs executive state agencies that provide direct public services to offer language assistance services (translation and interpretation) to people of Limited English Proficiency (LEP). If applicable, any solution being procured which is deemed to provide a “direct public service” must comply with EO 26.

38. Branding and Universal Web Navigation

Any public facing web-based information and applications development, or programming delivered pursuant to the Contract shall comply with New York State Information Technology Standard, NYS-S16-001- New York Universal Web Navigation and New York State Branding Guidelines as such policy and standard may be amended, modified or superseded.

39. Migration

Contractor's services performed under this Contract will ensure easy migration of the Data including Confidential Information under this Contract by providing its solution in a manner designed to do so. This may include maintaining that information in a format that allows Department to easily transfer it to an alternative application platform. Contractor will make its Application Programming Interfaces (APIs) available to Department.

40. Disclosure of Breach

Notwithstanding on any other provision of this Contract or requirements of law or regulation, the Contractor shall provide notice to the Department as soon as possible following the Contractor’s discovery or reasonable belief that there has been

unauthorized disclosure or loss of sensitive or Confidential Information ("Security Incident").

a. Within twenty-four (24) hours of the discovery or reasonable belief of a Security Incident, the Contractor shall provide a written report to the Department detailing the circumstances of the incident, which includes at a minimum:

   i. A description of the nature of the Security Incident;
   ii. The type of Department information involved including the categories of data;
   iii. Who may have obtained the Department information;
   iv. What steps the Contractor has taken or shall take to investigate the Security Incident;
   v. What steps the Contractor has taken or shall take to mitigate any negative effect of the Security Incident; and
   vi. A point of contact for additional information.

b. Each day thereafter until the Contractor's investigation is complete or otherwise directed by the Department, the Contractor shall provide the Department with a written report regarding the status of the investigation and the following additional information as it becomes available:

   i. Who is known or suspected to have gained unauthorized access to the Department's information;
   ii. Whether there is any knowledge if the Department information has been used in an unauthorized fashion or compromised;
   iii. What additional steps the Contractor has taken or shall take to investigate the Security Incident;
   iv. What steps the Contractor has taken or shall take to mitigate any negative effect of the Security Incident; and
   v. What corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.

c. Contractor shall also take immediate and necessary steps needed to restore the information security system to prevent further breaches.

d. The Contractor shall confer with the Department regarding the proper course for the investigation and risk mitigation. The Department reserves the right to conduct an independent investigation of any Security Incident, and should the Department choose to do so, the Contractor shall cooperate fully by making resources, personnel, and systems access available to the Department and the Department's authorized representative(s) who may include the New York State Chief Information Security Office.

e. Subject to review and approval of the Department, the Contractor shall, at its own cost, provide notice that satisfies the requirements of applicable law or regulation to

individuals whose personal, confidential, or privileged data were compromised or likely compromised as a result of the Security Incident as well as notice to any regulatory authority as required under the Contract or applicable law or regulation. If the Department, in its sole discretion, elects to send its own separate notice, then all costs associated with preparing and providing notice shall be reimbursed to the Department by the Contractor. If the Contractor does not reimburse such costs within thirty (30) calendar days of the Department's written request, the Department shall have the right to collect such costs including as a set-off against moneys due the Contractor.

f. The Department reserves the right to require the Contractor to provide commercially standard credit monitoring for any and all individuals affected by the data breach at the sole expense of the Contractor for a period not to exceed 12 months, which shall begin 30 days following the notice of offer from the Contractor of such credit monitoring to those affected individuals, which shall be within a reasonable time following the identification of such affected individuals. The Department reserves the right to require notice by regular or electronic mail.

This section is not subject to the limitation of liability provisions of the Contract.

Appendix C

New York State Department of Civil Service
Information Security Requirements
April 2020

The following requirements shall be effective as of the date the Contractor or Contractor Staff first receives, maintains, transmits, accesses or otherwise comes into contact with Confidential Information. These requirements are intended to describe the minimum standard for physical, technical and administrative controls affecting Confidential Information in relation to the Services being provided under the Agreement.

The Department may suspend access to Department Systems or Data at any time if the Department, in its sole discretion, believes Contractor is not complying with any of its obligations herein.

Variable Clauses
The following Data Classification and Contractor Data retention period is specific to this Agreement:

1. The Department has determined that the Data, System or application which the Contractor will either host, maintain or have access to has an impact level of <Confidentiality = High, Integrity = High, and Availability = High> and requires the associated baseline controls (see https://its.ny.gov/sites/default/files/documents/nys-s14-003_information_security_controls_1.pdf).

2. The Department has determined that the period of time that the Contractor must provide the Department continued access to Data beyond the expiration or termination of the Agreement is no less than one hundred and eighty (180) days.

Definitions
All capitalized terms in this Appendix that are not defined herein will have the meaning as set forth in Appendix B, Standard Clauses for All Department Contracts, or if not defined in Appendix B, the meaning as defined in 45 C.F.R. Parts 160-164.

1. Compliance

Contractor agrees to preserve the confidentiality, integrity and accessibility of Data with administrative, technical and physical measures that conform to federal, State and Department mandates, and the security controls as stated herein, based upon the nature of the Project Services provided, the Data involved, and/or the location where such Project Services are provided. Accordingly, Contractor warrants, covenants and

represents that it shall fully comply with all New York State Information Technology Security Policies, Standards and Procedures published by the New York State Chief Information Security Office at https://its.ny.gov/eiso/policies/security, as amended from time to time, that are applicable to the Project Services being provided by Contractor. Contractor is responsible for understanding which policies and state or federal laws apply to the Project Services and the Data in scope for the Agreement. If the requirements set forth herein are not the same as the New York State enterprise security policy, standard or procedures, then the more restrictive requirement applies. Contractor is responsible for assessing and monitoring Subcontractor control environments for compliance with the standards as documented herein.

2. Acceptable Use of Information Technology Resources

Contractor, including all Contractor Staff, accessing the State's Information Technology Resources in the course of their work for the Department are required to comply with New York State Information Technology Policy NYS-P14-001 – Acceptable Use of Information Technology Resources, as amended from time to time, prior to accessing any New York State Information Technology resources.

Access to the State's Networks, Systems, Data, or Facilities is provided to support the official business of the Department. Any use inconsistent with the Department's business activities and administrative objectives is considered unacceptable or inappropriate use.

The Department reserves the right to change its policies and rules at any time, with regard to the acceptable use of Department Networks, Systems, Data or Facilities. Non-compliance with these provisions or unacceptable use of Department Networks, Systems or Facilities may result in the revocation of system privileges, termination of the Agreement with Department, and/or criminal and/or civil penalties.

3. Information Security Program

3.1. Contractor must maintain a written Information Security Program ("WISP") including documented policies, standards, and operational practices that meet or exceed the requirements and controls set forth herein to the extent applicable to the Project Services and identify an individual within the organization responsible for its enforcement. Contractor's WISP shall address, at a minimum, all security requirements as listed in these requirements, as amended from time to time, and comply with all state and federal data security and privacy laws applicable to the Department. This documentation will be reviewed by Contractor's security official, or its designee, at least annually and

shall be updated periodically with changes to organization, technology, or Services. When implementing security controls Contractor shall take a risk-based approach. Any control exceptions which represent risk will be formally documented, monitored, and periodically reviewed.

3.2. Upon request by the Department, Contractor's WISP shall be made available to and reviewed by the Department or the Department's representative. At the Department's request and at no cost to the Department, Contractor shall make commercially reasonable modifications to its WISP or to its data security controls in order to conform to the requirements set forth herein, and the Department reserves the right, in its sole discretion, to terminate Contractor's access to Confidential Information until such time as Contractor has made such modifications to its WISP or data security controls. Contractor shall notify the Department in writing of any changes to systems, facilities or WISP controls affecting Confidential Information. This notification should set forth in detail how such changes will impact the Confidential Information.

3.3. Contractor shall apply appropriate sanctions against Contractor Staff who fail to comply with security policies and procedures.

3.4. Contractor shall have processes and procedures in place so that Security Incidents will be reported through appropriate communications channels as quickly as possible. Contractor shall periodically test, review, and update such processes and procedures. All Contractor Staff shall be made aware of their responsibility to report any Events prior to being granted access to any Confidential Information. If at any time during the Agreement, Contractor becomes aware of an Event or that it or any of its Subcontractors will or do not meet the obligations described within these requirements, Contractor will immediately notify the Department.

3.5. Contractor shall periodically conduct an accurate and thorough assessment of the potential risks and vulnerabilities to the confidentiality, integrity, and Availability of Confidential Information. The assessment must be reviewed by Contractor's security official and used to inform the Contractor's information security program.

3.6. Upon request, the Contractor shall identify to the Department the security official who is responsible for the development and implementation of the Contractor's policies and procedures.

4. Right to Assess, Audit and Certify

4.1. The Department, or its designated agents, may assess or audit the effectiveness of Contractor's compliance with requirements herein.

4.2. Upon request, Contractor shall complete a security controls assessment conducted by the Department or its designated agent ("Security Assessment"). To the extent that the security controls assessment identifies any risks or deficiencies for which remediation is required, such remediation requirements or compensating controls (and the timeframes within which the remediation requirement or compensating control must be successfully implemented) will be provided in writing to the Contractor. Contractor's failure to complete any remediation requirements within the required timeframe shall be deemed to be a material breach of the Agreement.

Where the Contractor is a Business Associate, or hosts, maintains or has access to Department Protected Health Information, certification in the HITRUST Common Security Framework (CSF) is required. The Department, in its discretion, may accept a comparable industry accepted security assessment certification in lieu of a HITRUST Common Security Framework (CSF) certification.

4.2.1. If the Contractor has a HITRUST CSF Certification applicable to the Project Services and/or applications in scope for the Agreement as of the Effective Date of the Agreement and maintains it throughout the Agreement, then that HITRUST CSF certification will be accepted in lieu of a security controls assessment identified in Section 4.2. Documentary evidence for HITRUST CSF certification must be provided to Department upon request and include, at a minimum, sections of the HITRUST CSF report that demonstrate Contractor's scoring across all domains and any corrective action plans required as a condition of certification. The Department may ask questions related to the protection of Confidential Information after review of documentation supporting the HITRUST CSF Certification. The Contractor's HITRUST CSF Certification does not waive Department's rights to assess under Section 4.1 herein or other audit rights, including rights to onsite facility inspection, provided elsewhere in the Agreement.

4.2.2. If the Contractor is without a HITRUST CSF certification as of the Effective Date of the Agreement, Contractor shall:

- Complete and provide to the Department a HITRUST CSF Self-Assessment Report no later than 90 days after the Effective Date of the Agreement; and
- Obtain and provide to the Department a HITRUST CSF Validated Report no later than 18 months after the

Effective Date of the Agreement; and

- Obtain and provide to the Department a HITRUST CSF certification and associated documentation, including but not limited to complete validated reports and corrective action plans, no later than 24 months after the Effective Date of the Agreement.

4.2.3. If Contractor has begun the process of obtaining a HITRUST CSF Certification before the Effective Date of the Agreement, then Contractor represents and warrants to the Department that all corrective action plans that are necessary to obtain a HITRUST CSF Validated Report and/or HITRUST CSF Certification and that have been identified to Contractor prior to the Effective Date shall be communicated to the Department and documented in writing to the Department.

4.2.4. Contractor shall within 30 days of identification report to the Department any findings through the HITRUST engagement that materially impacts Confidential Information. In addition, the Contractor will provide the associated corrective action plans identified during any self-assessment or third-party assessment, including any assessment related to Contractor's independent certification/attestation. Contractor will provide the Department with any further Information associated with such findings, as reasonably requested by the Department.

4.2.5. If at any time during the Agreement, the CSF Certification is withdrawn for any reason, Contractor will contact the Department within 24 hours of learning of the issue to provide information and remediation plans regarding the withdrawal.

4.3. From time to time Contractor may be requested to respond to, inform and provide updates regarding specific high-risk security gaps or exposures that exist for new or emerging security vulnerabilities that are made publicly known for systems, applications, hardware devices, etc. In all instances Contractor will provide a response to any Department inquiry within five business days and will provide specific details as to the questions asked to ensure that the Department can appropriately evaluate the risk or exposure to the Confidential Information.

5. Encryption

5.1. Contractor shall apply encryption methodology that, at minimum, conforms to the Federal Information Processing Standards Publication 140- 2 Security Requirements for Cryptographic Modules and applicable state and federal regulations ("Approved Encryption").

5.2. Cryptographic key management procedures must be documented and include references to key lifecycle management (including provisioning, distribution, and revocation) and key expiration dates.

5.3. Access to encryption keys must be restricted to named administrators. Encryption keys must be protected in storage. For example, methods of acceptable key storage include encrypting keys or storing encryption keys within a hardware security module (HSM). Data-encrypting keys should not be stored on the same systems that perform encryption/decryption operations.

5.4. Confidential Information must be encrypted while in transit and at rest across at least the following types of assets:

- Public shared Networks
- Non-wired Networks
- Cloud Services
- Desktop and portable computing devices
- Mobile devices
- Portable media
- Back-ups
- Application or Network servers
- 'Plug & play' storage devices

6. Network and Systems Security

6.1. Contractor shall utilize and maintain a commercially available, industry standard malware detection program which includes an automatic update function to ensure detection of new malware threats.

6.2. Contractor shall maintain an intrusion detection or prevention system that detects and/or prevents unauthorized activity traversing the Network.

6.3. Contractor shall have technical controls to detect, alert, and prevent the unauthorized movement of Data from Contractor's control (commonly referred to as Data Loss Prevention).

6.4. Networks or applications that contain Confidential Information must be separated from public Networks by a firewall to prevent unauthorized access from the public Network.

6.5. At managed interfaces, Network traffic is denied by default and allowed by exception (i.e., deny all, permit by exception).

6.6. Contractor shall establish security and hardening standards for Network devices, including Firewalls, Switches, Routers, Servers, and Wireless Access Points (baseline configuration, patching, passwords, and access control).

6.7. Web content filtering must be in place to restrict external webmail, instant messaging, file sharing and other Data leak vectors for any Contractor Staff with direct or indirect access to Confidential Information.

6.8. Quarterly vulnerability scans must be performed, and intrusion detection and identity management systems must be installed and monitored on all systems and components that handle, process, or store Confidential Information. Upon request, report summaries, including confirmation of remediation for vulnerabilities identified as high- or medium-risk, must be provided to Department.

6.9. At a minimum, Contractor shall engage a qualified third party to perform annual penetration testing of Contractor's Networks containing Confidential Information. The scope of the penetration testing must, at a minimum, include all internal/external systems, devices and applications that are used to process, store, or transmit Confidential Data, physical security controls for all applicable facilities, and social engineering tests. Contractor must provide the Department with summary results and a remediation plan at the Department's request.

6.10. If Contractor provides products or Services related to the Agreement through a Department portal or mobile applications, especially those which are internet-facing, or use Department domains, are subject to Department scanning and assessments. Contractor agrees to remediate vulnerabilities identified during this process in a manner and timeline acceptable to the Department.

6.11. Contractor shall ensure that no unencrypted Confidential Information is stored in any system that is internet facing.

6.12. Contractor shall use secure means (i.e. HTTPS, FTPS) for all electronic transmission or exchange of System, user and application information with the Department.

7. Mobile Device Security Controls

7.1. Contractor must have a documented mobile device policy that includes a documented definition for mobile devices and the acceptable usage

and security requirements for all mobile devices.

7.2. Where Contractor permits Bring Your Own Device (BYOD), Contractor must have a BYOD policy that defines the device and eligibility requirements for BYOD usage in the event that Confidential Information will be viewed or stored on devices that are not Contractor-issued mobile devices.

7.3. Contractor must post and communicate the mobile device policy and requirements through Contractor's security awareness and training program.

7.4. Contractor must have a centralized mobile device management solution (MDM) deployed to all mobile devices that are permitted to store, transmit, or process Confidential Information.

7.5. Contractor's mobile device policy must require the use of encryption for either the entire device or for Confidential Information and must be enforceable through Contractor's MDM solution or other technical controls.

7.6. Contractor must enforce password policies for Contractor-issued mobile devices and/or BYOD mobile devices using Contractor's MDM solution or other technical controls.

7.7. Contractor's Information Technology department must provide remote wipe or corporate Data wipe for all mobile devices in the event that Confidential Information will be viewed or stored on mobile devices.

8. System and Application Controls

8.1. All Confidential Information must be securely stored at all times to prevent loss and unauthorized access or disclosure.

8.2. Laptop and workstation systems that access Confidential Information remotely must utilize endpoint protection which includes a personal firewall and anti-malware protection.

8.3. Operating systems and application software used must be currently supported by the manufacturer.

8.4. Current versions of operating system and application software must be maintained, and patches applied in a timely manner for all systems and applications that receive, maintain, process, or otherwise access Confidential Information.

8.5. Confidential Information must not be used in any non-production environment such as testing or quality assurance unless de-identification of the Data has been performed. In the event that de-identification is not practical or feasible, compensating controls must be in place protecting the Data to the same level of protection as afforded to the production environment. Confidential Information must not be placed into a non-production cloud computing environment.

8.6. Confidential Information must be segmented from non-Department Information so that appropriate controls are in place to identify the Data as Department's in all instances, including backup and removable media, and to appropriately restrict access only to users authorized to view the Data. Logical separation must allow Data to be deleted when it is no longer required.

8.7. Logical controls, virtual machine zoning, virtualization security and segregation must be in place to help prevent attacks and exposure in multi-tenancy environments containing Confidential Information.

8.8. Contractor shall maintain an asset management system which records the movement of hardware and electronic media and any persons responsible therefore.

9. Software Development Lifecycle

9.1. Contractor must use industry standards such as BSIMM, NIST, OWASP, etc. to build in security for its Systems Development Lifecycle (SDLC).

9.2. Contractor must use both an automated and manual source code analysis tool to detect and remediate security defects in code prior to production deployment.

9.3. Contractor must have policies and procedures in place to triage and remedy reported bugs and security vulnerabilities for the Project Services it provides to Department.

9.4. Contractor must have controls in place to prevent unauthorized access to its or Department's application, program, or object source code and ensure that access is restricted to authorized personnel only.

9.5. National identifiers or Social Security Numbers must not be utilized as User IDs for logon to applications.

10. Physical Controls for the Protection of Confidential Information

10.1. All Confidential Information received or created in paper form must be protected from viewing by unauthorized persons.

10.2. A clean desk policy will be enforced to ensure proper safeguarding of all hard copy Confidential Information.

10.3. Visitor logs documenting all individuals who are not Contractor Staff who gain access to the facility where Confidential Information is processed will be maintained.

10.4. Confidential Information shall not leave control of the Contractor without the written approval of Department.

10.5. Servers, enterprise data storage devices, backup tapes and media, and other computing devices that contain Confidential Information used to support Network communications must be located in a secure and restricted access location.

10.6. Monitoring cameras (e.g., CCTVs) must monitor ingress and egress to sensitive areas within the facility. The monitoring equipment (e.g., CCTV) feed must be monitored either internally or externally by a qualified team. Alerting procedures must be defined and notification performed to qualified Contractor personnel. Processes for retention and review of security logs (e.g., access and visitor logs, CCTV) must be in place. Cameras must be positioned in a way that Confidential Information is not readable on screens and/or on CCTV recordings or screen captures.

10.7. When investigation of an incident or Breach is required, all audit trails and CCTV recordings shall be made available to Department upon request and in a timely manner.

11. Access Control

11.1. Prior to gaining access to Confidential Information, Contractor Staff will have appropriate background checks completed in compliance with state and federal law. See Standard Clauses for All Department Contracts (Appendix B), Onboarding and Suitability Determinations.

11.2. Security awareness training will be completed by Contractor Staff prior to access being granted to Confidential Information, and then completed on an annual basis going forward so long as access to Confidential Information continues. This training should include, at a minimum, guidance on defending against malware, protecting passwords, monitoring and reporting system notifications, social engineering, and handling sensitive Data. The Department may require Contractor Staff to complete Department specific security

training at no additional cost to the Department.

11.3. Physical and logical access will be granted to the minimum Confidential Information necessary to meet the requirements of the user's scope of responsibilities.

11.4. Access reviews will be performed at least quarterly for privileged user accounts and twice annually for non- privileged user accounts.

11.5. Only those individuals providing Project Services to the Department, or those who are responsible for administering or managing systems that contain Confidential Information, shall be authorized to access systems containing Confidential Information.

11.6. All Contractor Staff that are no longer required or authorized to access Confidential Information or systems that contain Confidential Information must have access promptly disabled.

11.7. Access to Confidential Information and systems that contain Confidential Information must be access controlled through the use of individual user IDs and passwords that meet healthcare industry standard complexity rules and password lifetimes.

11.8. If it is suspected that a password has been compromised, the password must be immediately changed or reset.

11.9. Processes must be in place to create audit trails capable of determining who has accessed Confidential Information and/or systems that contain Confidential Information.

11.10. Remote access to systems or Networks that contain Confidential Information must use multi-factor authentication and a connection with Approved Encryption as defined in Section 5 above.

11.11. The Department reserves the right to immediately terminate remote access connections to Department or State Networks and Systems.

11.12. Upon request, Contractor shall provide reports within 48 hours for:

11.12.1. List of all individuals with access to Confidential Information and/or systems that contain Confidential Information and the level of access granted;

11.12.2. List of activity associated with any user ID who has access to Confidential Information; and

11.12.3. Account management capabilities, such as account lockouts for unsuccessful logon attempts, defined inactivity

times, remote access allowances, specific success and failure events, and management of elevated privilege accounts must be enforced.

11.13. All identity credentialing, authentication, Authorization, and access control events must be logged, and those logs are subject to periodic audit by the Department. At a minimum, the logs of all specified success and failure events associated with identity and access management in the computing environment it manages must be produced. These logs must then be archived for at least twelve months. These archived logs must be searchable and or discoverable.

12. Data Protection

Contractor must protect Confidential Information from unauthorized access, use, alternation, disclosure, or dissemination. The Contractor must, in accordance with applicable law and the instructions of the Department, maintain such Data for the time period required by applicable law, exercise due care for the protection of Data, and maintain appropriate data integrity safeguards against the deletion or alteration of such Data. If any Data is lost or destroyed because of any act or omission of the Contractor or any non-compliance with the obligations of this Contract, then Contractor shall, at its own expense, use its best efforts to reconstruct such Data as soon as feasible. In such event, Contractor shall reimburse the Department for any costs incurred by the Department in correcting, recreating, restoring or reprocessing such Data or in providing assistance therewith.

13. Physical Data Transport

The Contractor shall use, if applicable, reputable means to physically transport Data. Deliveries must be made either via hand delivery by an employee of the Contractor or by restricted delivery via courier (e.g., FedEx, United Parcel Service, United States Postal Service) with shipment tracking and receipt confirmation. This requirement applies to transport between the Contractor's offices, to and from Subcontractors, and to the Department.

14. Data Return and Destruction

At the expiration or termination of the Agreement, at the Department's option, the Contractor must provide the Department with a copy of the Data, including metadata and attachments, in a mutually agreed upon, commercially standard format. The Contractor must provide the Department continued access to the Data beyond the expiration or termination of the Agreement for the period designated in Variable section of Appendix C. Thereafter, except for Data required to be maintained by law or this Agreement, Contractor shall destroy Data from its systems and wipe all its data storage devices to eliminate any and all Data from Contractor's systems. The sanitization

process must comply with New York State Security Policy NYS-S13-003. If immediate purging of all data storage components is not possible, the Contractor will certify that any Data remaining in any storage component will be safeguarded to prevent unauthorized disclosures. Contractor must then certify to the Department, in writing, that it has complied with the provisions of this paragraph.

15. Offshore Security Requirement

Confidential Information, including Protected Health Information, is not permitted to be hosted, maintained, stored, processed or otherwise accessed outside CONUS ("offshore").

16. Contingency Planning

Contractor will have documented Business Continuity and Disaster Recovery plans in place that include Information security controls. Such plans will be tested at least annually.

17. Incident Response

17.1. Contractor will have a documented Incident Response Plan. Such plan will be tested at least annually.

17.2. Incident response roles and responsibilities must be clearly outlined between Contractor and Department as appropriate.

18. Payment Card Industry Data Security Standard

If, in performing Project Services to or on behalf of Department, Contractor acts as a Merchant or payment card processor as defined by the Payment Card Industry Data Security (PCI DSS) standard, then Contractor agrees to comply with the applicable PCI DSS requirements.

19. Litigation Holds

The Contractor must provide a detailed mechanism for how litigation holds will be implemented. This description shall include how metadata will be created, accessed, and stored in a cloud environment.

APPENDIX C-1

Glossary
For Appendix B and Appendix C
April 2020

Term	Definition
Agreement	See Contract.
Authorization	Access privileges granted to a user, program, or process or the act of granting those privileges.
Availability	The extent to which information is operational, accessible, functional and usable upon demand by an authorized entity (e.g., a system or user).
Breach	Acquiring of information by a person without valid authorization or through unauthorized acquisition.
Contractor	The entity that has been awarded a contract and has executed a Contract with the State. Also referred to as "Vendor."
Contractor Staff	For purposes of this contract "Contractor Staff" includes all officers, employees, agents, consultants and/or sub-contractors of the Contractor who shall perform Project Services under this Contract or have access to Data.
Cloud Service	Cloud Service shall mean any Product or Service sold as an "as a service" offering and has one or more of the following characteristics: (a) User Data is transmitted, acted upon, or stored on equipment not owned by the User; (b) Allows a Contractor access to User Data from a location other than the User's premises; or (c) Allows a User access to data not owned by the User which access may or may not result in the collection of User Data. (see also Hosted Application)
Continental United States of America (CONUS)	The 48 contiguous States, and the District of Columbia.
Contract	The writings that contain the agreement of the Department and the Contractor setting forth the legal obligations of the Parties as determined by the applicable rules of law.
Data	Any information, analytic derivatives, formula, algorithms, or other content that the Department or State may provide to the Contractor pursuant to this Contract. Data includes, but is not limited to, any of the foregoing that the Department and/or Contractor (i) uploads to a Cloud Service, and/or (ii) creates and/or modifies using a Cloud Service.
Deliverable	All Services or products created during the performance of the Project Services hereunder or otherwise identified as a "Deliverable". A Deliverable is a building block of an overall project. For the purposes of this Contract, a deliverable shall

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Glossary
For Appendix B and Appendix C
April 2020

	not be set forth as a status report, meeting attendance, a block of staff hours, or an invoice submission.
Department or DCS or CS	NYS Department of Civil Service
Hosted Application	A Hosted Application is a software as a service (SaaS) solution that allows users to execute and operate a software application entirely from the cloud on a recurring subscription basis. A Hosted Application is hosted and powered from the remote cloud infrastructure and are accessed globally through the Internet. It provides the same functionality as locally installed software but can be updated more easily. A Hosted Application may also be known as Internet-based application, Web application and online application.
Event	Any observable occurrence in a system and/or network that may indicate than a Security Incident is occurring or has occurred.
Information	Any representation of facts, concepts or instructions created, stored (in temporary or permanent form), filed, produced or reproduced, regardless of the form or media. Information may include but is not limited to the data contained in reports, files, folders, memoranda, statements, examinations, transcripts, images or communications. Information may be electronic or hard copy.
Licensed Software	Licensed software includes ancillary products, error corrections, upgrades, enhancements or new releases, and any deliverables due under a maintenance or service contract (e.g. patches, fixes, PTFs, programs, code or data conversion, or custom programming).
Licensee	Licensee acquires product from the Contractor by execution of a license in accordance with the terms and conditions of the Contract.
Licensor	A Licensor is a contractor who transfers rights in proprietary Product in accordance with the rights and obligations specified in the Contract.
Network	Multiple devices (e.g. computers) that are linked or communicate with one another.
Personally Identifiable Information (PII)	As defined in NIST Special Publication 800-122 “Guide to Protecting the Confidentiality of Personally Identifiable Information (PII)”.

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Personal information	Shall have the same meaning as defined in State Technology Law §202. This shall mean any information concerning a natural person which, because of name, number, symbol, mark or other identifier, can be used to identify that natural person.
Private Information	Any information where unauthorized access, disclosure, modification, destruction or disruption of access to or use of such information could severely impact the Department, its critical functions, its employees, its customers, third parties, or citizens of New York. This term shall be deemed to include, but is not limited to, the information encompassed in existing statutory definitions.
Project Services	See Service or Services.
Regulated Data	Data that is subject to federal and state laws, regulations, policies, standards and guidelines regarding its protection, storage, access, use, handling, disclosure, and destruction.
Security Incident	A Security Incident is a violation or imminent threat of violation of computer security policies, acceptable use policies, or standard security practices. A Security Incident is also defined as any Event that adversely affects the confidentiality, integrity, or Availability of a System and its Data. See NYS ITS Policy NYS-S13-005 or its successor for additional information.
Service or Services	Shall have the same meaning as defined in State finance Law §160. This shall mean the performance of a task or tasks and may include a material good or a quantity of material goods, and which is the subject of any purchase or other exchange.
Solicitation	Writings by the State setting forth the scope, terms, conditions and technical specifications for a procurement of Product.
State or NYS	State of New York.
State Agency	State agency or state agencies means all state departments, boards, commissions, offices or institutions but excludes, however, for the purposes of subdivision five of section three hundred fifty-five of the education law, the state university of New York and excludes, for the purposes of subdivision a of section sixty-two hundred eighteen of the education law, the city university of New York. Furthermore, such term shall not include the legislature or the judiciary.
Subcontractor	“Subcontractor” means any individual or legal entity (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) who has entered into a contract, express or implied, for the performance of a portion of the Contract with a Contractor.

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Glossary
For Appendix B and Appendix C
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System	An interconnected set of information resources under the same direct management control that shares common functionality. A system normally includes hardware, software, applications, and communications.
Technology	Shall have the same meaning as defined in Executive Law, § 205(5). It is a good, service, or good and service that results in a digital, electronic or similar technical method of achieving a practical purpose or in improvements in productivity, including but not limited to, information management, equipment, software, operating systems, interface systems, interconnected systems, telecommunications, data management, networks, and network management, consulting, supplies, facilities, maintenance and training. The term "Technology" shall be deemed to include all tasks and products encompassed within the term "services", as defined in State Finance Law, § 160 (7).
Virus	Any computer code, whether or not written or conceived by Contractor, that disrupts, disables, harms, or otherwise impedes in any manner the operation of the Product, or any other associated software, firmware, hardware, or computer system (such as local area or wide-area networks), including aesthetic disruptions or distortions, but does not include security keys or other such devices installed by Product manufacturer. Virus shall also include any malware, adware, or other computer code, whether or not written or conceived by Contractor, that allows data or metrics to be copied, redirected, or modified without the express consent of DCS.

ATTACHMENT 1

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

Offeror Affirmation of Understanding and Agreement

As a prerequisite for participating in these specifications entitled: "**Health Maintenance Organizations Specifications for the New York State Health Insurance Program**", 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. Attachment 1 should be completed by the Offeror and emailed, faxed and/or mailed to the Designated Contact as set forth in Section 2.

Offeror Affirmation and Agreement

The Offeror affirms that it understands and agrees to comply with the procedures of the Department of Civil Service relative to permissible Contacts as required by State Finance Law §139-j(3) and §139-j(6)(b). The Department's procedures are set out in Attachment 2.

Name of Offeror:	
By:	
	(Signature)
Name:	
Title:	
Email:	
Address:	
Date:	

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service	**Procurement Lobbying Policy - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"**

Procurement Lobbying, Ch.4, L. 2010 State Finance Law (SFL)
Sections 139-j and 139-k

I. Definitions

For the purpose of this policy, 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 (unless it is a Contact that is included among certain statutory exemptions set forth in State Finance Law §139-j(3)(a)) with a 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.

"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:

a) Any department, board, bureau, commission, division, office, council, committee or officer of the state, whether permanent or temporary, including the Department;

b) Each house of the state legislature;

c) The unified court system;

d) Any public authority, public benefit corporation or commission created by or existing pursuant to the public authorities law;

e) 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;

f) A municipal agency, as that term is defined in paragraph (ii) of subdivision (s) of section one-c of the legislative law;

g) 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 procuring agency 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 a Department 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 posting, on the Department's website, in a newspaper of general circulation, or in the procurement opportunities newsletter in accordance with Article four-C of the Economic Development Law, of written notice, advertisement or solicitation of a request for Proposal, invitation for bids, or solicitation of proposals, or any other method provided for by law or regulation for soliciting a response from Offerors intending to result in a procurement contract with the Department, and ending with the final contract award and approval of the contract by the Department and, where applicable, the Office of 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 a 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, Department 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

Department 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 its 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 Department's Ethics Officer or the Department's 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 Department's Ethics Officer or the Department's Director of Internal Audit.

VIII. Department Review of Alleged Violations and the Imposition of Sanctions

a) If the Department's Ethics Officer or the Department's 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 Department's 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 investigate 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.

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

Formal Offer Letter - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

[TO BE COMPLETED ON OFFEROR'S LETTERHEAD]

Date:

NYS Department of Civil Service
Agency Building #1, 17th Floor
Empire State Plaza
Albany, New York 12239

RE: "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"
Firm Offer to the State of New York

[INSERT OFFEROR NAME] hereby submits this firm and binding offer to the State of New York in response to the Department's specifications request, entitled "Health Maintenance Organizations Specifications for the New York State Health Insurance Program". 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 the specifications.

[INSERT OFFEROR NAME] accepts the terms and conditions as set forth in the specifications, Section 8 and Appendices A, B, and C, as modified by the Department and Offeror's negotiations in response to the *Non-Material Deviations Template* (Attachment 8) and agrees to satisfy the comprehensive programmatic duties and responsibilities outlined in the specifications in the manner set forth in the specifications.

[INSERT OFFEROR NAME] agrees to execute a contractual agreement that includes the terms and conditions set forth in Section 8 of these specifications, and accepts as non-negotiable the terms and conditions set forth in Appendix A. Offeror agrees to only submit for consideration non-material deviations to these specifications and Appendices B, and C using the *Non-Material Deviations Template* (Attachment 8).

[INSERT OFFEROR 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 4.6 and 4.7 of the 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 the specifications. In the event that a contract is not approved by the NYS Comptroller within the ~~180~~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 OFFEROR NAME]** delivers to the Department of Civil Service written notice of withdrawal of its Proposal.

[INSERT OFFEROR NAME]'s complete offer is set forth as follows:

Administrative and Technical Proposal:
Total of eight (8) electronic copies on a USB drive that each contain the Administrative and Technical Proposal and three (3) hard copy volumes, including one ORIGINAL hard copy.

Complete Electronic Master Proposal:
One (1) USB drive containing all two sections (Administrative and Technical) of the Offeror's Proposal and electronic copies of all materials and documents present in the Original hard copies.

Offeror's Senior Officer Responsible for Account contact information

Name:

Address:

Phone number:

Email address:

(Remainder of this page intentionally left blank)

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

Formal Offer Letter - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

The undersigned affirms and swears s/he has the legal authority and capacity to sign and make this offer on behalf of, **[INSERT OFFEROR NAME]** and possesses the legal authority and capacity to act on behalf of **[INSERT OFFEROR NAME]** to execute a contract with the State of New York.

The Offeror certifies that all information provided to the Department with respect to State Finance Law §139-k is complete, true and accurate. The undersigned affirms and swears as to the truth and veracity of all documents included in this offer.

[INSERT OFFEROR NAME]

Signature: _____ **Title:** _____

PRINT SIGNATORY'S NAME: _____ **Date:** _____

INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGMENT
STATE OF }

Sworn Statement:

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 maintains an office at Town of_____ County of _____, State of_____; and further that:

____ **(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 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 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 _____ Date: _____

ATTACHMENT 4

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service	**Questions Template** - **"Health Maintenance Organizations Specifications for the New York State Health Insurance Program"**

Offeror Name: _____

Email address: _____

Question Number	Page #	Section Reference	Question

An Offeror is required to use the **Questions Template** table above when submitting questions. Offeror's questions must be submitted to Designated Contact specified in Section 2 of the specifications.

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

New York State Department of Civil Service Debriefing Guidelines

06/08/2020

In accordance with NYS State Finance Law §163(9)(c), the Department shall make a debriefing available to any entity that submitted an unsuccessful proposal or bid in response to a given solicitation after notification is made by the Department. All Offerors shall be given written notice of the tentative contract award.

Timeframes associated with requesting/conducting a Debriefing:

A debriefing must be requested by an unsuccessful Offeror in writing, either via postal mail or electronic mail, within fifteen calendar days of the Department's written notification that an Offeror's offer is unsuccessful.

- Debriefing:
  Any unsuccessful Offeror, upon request, will be afforded an opportunity for a debriefing. An unsuccessful Offeror's failure to timely request a debriefing shall not extend the time period to file a protest.

How Debriefings shall be conducted by the Department:

A debriefing may be requested by any unsuccessful Offeror regarding the reasons that the submitted proposal or bid 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, upon the mutual agreement of the Department and the Offeror.

A debriefing is 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. A debriefing will include:

A. the reasons that the proposal, bid or offer submitted by the unsuccessful Offeror was not selected for award. The Department will not discuss specific details of other Offerors' proposals.

B. the qualitative and quantitative analysis employed by the agency in assessing the relative merits of the proposals, bids or offers;

C. the application of the selection criteria to the unsuccessful Offeror's proposal; and

D. when the debriefing is held after a final award, the reasons for the selection of the winning proposal, bid or offer. The debriefing shall also provide, to the extent practicable, general advice and guidance to the unsuccessful Offeror concerning potential ways that a future proposal, bid or offer could be more responsive.

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

New York State Department of Civil Service Debriefing Guidelines

06/08/2020

General:

- ✓ The Department will schedule the same amount of time for each Offeror who requests a debriefing.
- ✓ A debriefing will not be scheduled for more than one hour.
- ✓ A debriefing will be held individually with each requesting unsuccessful Offeror.
- ✓ The Department's Designated Contact (i.e., the Procurement Manager) is the sole person authorized to schedule a debriefing.
- ✓ The Offeror must provide a list of their intended attendees prior to the debriefing, including their titles or relationship to the Offeror and notify the Department if the Offeror is intending to have legal counsel participate, so that the Department can notify agency legal counsel.
- ✓ At least two Department 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.
- ✓ Requests for copies of documents made by an Offeror at the debriefing must be handled in accordance with the Department's Freedom of Information Law procedures.

ATTACHMENT 6

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service	**Offeror Attestations Form - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"**

A representative of the Offeror who is legally authorized to bind the Offeror must complete and sign the Offeror Attestations Form and provide all requested information. Please note that the narrative stated below with regard to each requirement is provided as a convenience to the Offeror and the requirement(s) identified in the Specifications referenced section is the controlling language.

Offeror Name:		
Offeror's Legal Form:		□ Corporation □ Partnership □ Sole Proprietorship □ Other _____
No.	**Ref.**	**Requirement:**
1.	Section 1.5(1)	At time of Proposal submission, Offeror represents and warrants that it: □ possesses □ does not possess the legal capacity to enter into a contract with the Department.
2.	Section 1.5(2)	At time of Proposal submission, the Offeror represents and warrants that it: □ attests □ does not attest a. is licensed as an insurer under Articles 42 or 43 of New York State Insurance Law or certified under Article 44 of New York State Public Health Law, in good standing, and in compliance with state solvency requirements; and b. If applicable, be certified/licensed in accordance with the certification and oversight jurisdiction imposed by another state.
3.	Section 1.5(3)	At time of Proposal submission, Offeror represents and warrants that: □ attests □ does not attest it has been in operation as a going concern at least two (2) years prior to the Proposal Due Date set forth in Section 1.6 of this specifications.
4.	Section 1.5(4)	At time of Proposal submission, Offeror represents and warrants that: □ attests □ does not attest it is accredited by the National Committee on Quality Assurance (NCQA) and/or Utilization Review Accreditation Committee (URAC).
5.	Section 1.5(6)	At time of Proposal submission, Offeror represents and warrants that: □ acknowledges and agrees □ does not acknowledge and agree: to accept all determinations of eligibility made by the Department and must provide a rider that includes all NYSHIP dependent eligibility provisions.

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service	**Offeror Attestations Form - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"**

6.	Section 1.5(7)	At time of Proposal Due Date, Offeror represents and warrants that: □ acknowledges and agrees □ does not acknowledge and agrees: It must use any 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 comply with the Department's Information Security Requirements (Appendix C) including any additional protocols required by the Department to ensure the security of its data transmissions.
7.	Section 1.5(8)	At time of Proposal Due Date, Offeror represents and warrants that: □ acknowledges and agrees □ does not acknowledge and agrees: It must 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.
8.	Section 1.5(9)	The Offeror represents and warrants: □ acknowledges and agrees □ does not acknowledge and agrees: The Offeror must accept a signed and valid *NYSHIP Authorization for Release of Protected Health Information forms* (Attachment 27), or any alternative form developed by the Department during the contract term, for the purpose of the release of Protected Health Information to Enrollees' designees.
9.	Section 3.6(1)(a)	Offeror represents and warrants that: □ acknowledges and agrees □ does not acknowledge and agree that: all Member communication material developed by the Offeror are subject to the Department's final approval.

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

Offeror Attestations Form - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

CERTIFICATION:
The Offeror: (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; and (3) certifies that the information submitted in this certification and any attached documentation is true, accurate and complete

Signature: _____ Title: _____

PRINT SIGNATORY'S NAME: _____ Date: _____

INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGMENT
STATE OF }

Sworn Statement:

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 maintains an office at
Town of_____
County of _____, State of_____; and further that:

____ (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 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 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 _____ Date: _____

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service	**New York State Required Certifications - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"**

Offeror Name: _____

NON-DISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND
MACBRIDE FAIR EMPLOYMENT PRINCIPLES

In accordance with Chapter 807 of the Laws of 1992 the Contractor, by submission of this Certification, certifies that it or any individual or legal entity in which the Contractor holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership interest in the Contractor, 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 Certification, the Contractor and each person signing on behalf of the Contractor certifies, under penalty of perjury, that to the best of his knowledge and belief:

1. The prices in this Agreement 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 competitor;

2. Unless otherwise required by law, the prices which have been quoted in this Agreement have not been knowingly disclosed by the Contractor and will not knowingly be disclosed by the Contractor prior to contract approval, directly or indirectly, to any other competitor; and

3. No attempt has been made or will be made by the Contractor to induce any other person, partnership or corporation to submit or not to submit a price quote for the purpose of restricting competition.

New York State Required Certifications - **"Health Maintenance Organizations Specifications for the New York State Health Insurance Program"**

EXECUTIVE ORDER NO. 177 CERTIFICATION

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to:

- all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
- employers with fewer than four employees in all cases involving sexual harassment; and,
- any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Contractor hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

SEXUAL HARASSMENT PREVENTION CERTIFICATION

State Finance Law §139-l requires bidders on state procurements to certify that they have a written policy addressing sexual harassment prevention in the workplace and provide annual sexual harassment training (that meets the Department of Labor's model policy and training standards) to all its employees.

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the Labor Law.

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

New York State Required Certifications - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

(Note: Bids that do not contain this certification will not be considered for award; provided however, that if the bidder cannot make the certification, the bidder may provide a signed statement with the bid detailing the reasons why the sexual harassment prevention certification cannot be made.)

PUBLIC OFFICER LAW REQUIREMENTS AND CONFLICT OF INTEREST DISCLOSURE

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 establish ethical standards for current and former State employees. In submitting its Proposal, the Offeror must guarantee knowledge and full compliance with such provisions for purposes of the 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 Offeror hereby submits its affirmative statement as to the existence of, absence of, or potential for conflict of interest on the part of the Offeror 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 Offeror because of prior, current, or proposed contracts, engagements, or affiliations. Please attach additional pieces of paper as necessary.

_____
_____
_____
_____
_____
_____
_____
_____

IRAN DIVESTMENT ACT

By submitting a Proposal in response to this solicitation or by assuming the responsibility of a contract awarded hereunder, Offeror (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.

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

New York State Required Certifications - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

Signature: _____ Title: _____

PRINT SIGNATORY'S NAME: _____ Date: _____

INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGMENT
STATE OF }

Sworn Statement:

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 maintains an office at Town of_____ County of _____, State of_____; and further that:

____ (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 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 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 _____ Date: _____

ATTACHMENT 8

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service	**Non-Material Deviations Template - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"**

Offeror Name: _____

An Offeror is required to use this Non-Material Deviations Template when submitting any proposed non-material deviations and/or alternates. Offeror's proposed deviations must be submitted with its Proposal. Each proposed deviation (addition, deletion, counter-offer or modification) must be specifically enumerated, in a writing, which is not part of a pre-printed form. The writing must identify the specific Solicitation requirement (if any) the Offeror rejects or proposes to modify by inclusion of deviation. The Offeror must enumerate the proposed deviation (addition, deletion, counter-offer or modification) from the Solicitation, and the reasons. **Note**: Every column of the template must be completed.

Deviation Number	Page #	Section Reference	Proposed Deviation with Detailed Explanation

ATTACHMENT 9

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

Subcontractors or Affiliates - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

INSTRUCTION: Prepare this form for each Subcontractor or Affiliate. For purposes of completing this form, Subcontractors include all vendors who will provide $100,000 or more in Project Services over the term of the Agreement that results from these Specifications, as well as any vendor who will provide Project Services in an amount lower than the $100,000 threshold, and who is a part of the Offeror's account team.	
Offeror's Name:	
The Offeror: ☐ is ☐ is not proposing to utilize the services of a Subcontractor(s) or Affiliate(s) to provide Project Services	
Subcontractor or Affiliate's Legal Name:	
Business Address:	
Subcontractor's Legal Form:	☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☐ Other _____
As of the date of the Offeror's Proposal, a subcontract or agreement ☐ has ☐ has not been executed between the Offeror and the subcontractor(s) or Affiliate for services to be provided by such subcontractor(s) or Affiliate(s) relating to the Project.	
In the space provided below, describe the Subcontractor's or Affiliate's role(s) and responsibilities regarding Project Services to be provided:	
Relationship between Offeror and 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. Project Title:	
4. Project Start Date:	
5. In the space provided below, Project Status:	
6. In the space provided below, describe the roles and responsibilities of the Offeror and Subcontractor or Affiliate in regard to the project identified in 3, above:	

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

Subcontractors or Affiliates - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

INSTRUCTION: Complete the following chart listing any Subcontractors or Affiliates the HMO will employ to deliver a category of services to NYSHIP enrollees. A 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.

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)			

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service	**Compliance with NYS Workers' Compensation Law - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"**

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.ny.gov. Failure to provide verification of either of these types of insurance coverage by the time the winning Offeror is selected and the Agreement 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 WCL §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.

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service	**Compliance with NYS Workers' Compensation Law - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"**

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) 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.

ATTACHMENT 11

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service	**Freedom of Information Law Request for Redaction Chart - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"**

_____ Proposal Dated _____
(Name of Company)

In response to the Specifications referenced above**:**

□ Offeror asserts that the information noted in the table below constitutes proprietary and/or trade secret information or critical infrastructure information or otherwise falls within one of the other statutory exemptions pursuant the New York State Freedom of Information Law, Article 6 of the Public Officers Law (FOIL). The Offeror desires that such information not be disclosed if requested pursuant to FOIL.

□ Offeror makes **NO** assertion that any information in its Proposal, in whole or in part, should be protected from FOIL disclosure.

Administrative Proposal:		
Requested Redaction Page #s and Proposal Sections or Attachment #	**Description**	**Offeror Rationale for Proposed Redaction**
Insert rows above as necessary		
Technical Proposal:		
Requested Redaction Page #s and Proposal Sections or Attachment #	**Description**	**Offeror Rationale for Proposed Redaction**

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service	**Freedom of Information Law Request for Redaction Chart - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"**

Insert rows above as necessary		

REDACTION CHART

Specific justification for each item for which you seek protection from FOIL disclosure must be provided in the above chart. An appropriate justification may be 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 Offeror'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 Offeror, 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 Offeror's business or organization;

g) the extent to which the information is known by Offeror's employees and others involved in the Offeror's business;

h) the value of the specific information/record to the Offeror and to its competitors;

i) the amount of effort or money expended by the Offeror 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.

ATTACHMENT 12

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service	**New York State Subcontractors and Suppliers - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"**

Offeror Name: _____

As stated in Section 2 of these Specifications, an Offeror is encouraged to use New York State businesses in the performance of Program Services. Please complete the following exhibit to reflect the Offeror'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 and/or Supplier

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

JLMC Contact Members - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

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ATTACHMENT 14

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service	**Prescription Drug Benefit (Commercial Plan) form - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"**

Offeror Name: _____

INSTRUCTIONS: **Complete the following charts and answer the following questions as applicable to the prescription drug programs proposed for NYSHIP using the definitions on the final pages of this Attachment.**

Commercial Formulary *(indicate using X in appropriate category)*				
Type of Formulary Offered (Indicate only one)				
Open(1)	Incented(2)	Closed(3)		
Copayments for 30-day supply and 31to 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				
31to 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)	Other (Please Describe)

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

Prescription Drug Benefit (Commercial Plan) form - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

Medicare Part D Formulary *(indicate using X in appropriate category)*				
Type of Formulary Offered (Indicate only one)				
Open(1)	Incented(2)	Closed(3)		
Copayments for 30-day supply and 31to 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				
31to 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)	Other (Please Describe)

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

2. 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.

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

4. Does HMO's prescription drug benefit have separate requirements or limitations for "specialty medications?" If so, define "specialty medications" and describe the process Members must use to obtain specialty medications, including whether specialty medications must 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, has the HMO implemented specialty prescription drug fulfillment hardship exception criteria?

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.

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

Wellness Programs/Activities - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

Offeror Name: _____

Description of Program/Activity	Date held or scheduled date

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

Current Five Largest Employer Groups - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

Offeror Name: _____

Employer Name	Number of Contracts

ATTACHMENT 17

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

NYSHIP Enrollment by NYS County and by State
"Health Maintenance Organizations
Specifications for the New York State Health Insurance Program"

NYSHIP Enrollment by NYS County*

COUNTY	INDIVIDUAL	FAMILY	TOTAL
ALBANY	18,130	12,151	30,281
ALLEGANY	558	680	1,238
BRONX	5,312	3,367	8,679
BROOME	4,703	3,737	8,440
CATTARAUGUS	1,183	1,152	2,335
CAYUGA	1,500	1,735	3,235
CHAUTAUQUA	1,388	1,611	2,999
CHEMUNG	1,342	1,706	3,048
CHENANGO	838	896	1,734
CLINTON	2,360	3,122	5,482
COLUMBIA	1,410	1,393	2,803
CORTLAND	1,017	957	1,974
DELAWARE	717	813	1,530
DUTCHESS	4,641	5,111	9,752
ERIE	14,058	13,466	27,524
ESSEX	525	742	1,267
FRANKLIN	1,969	2,180	4,149
FULTON	653	678	1,331
GENESEE	809	1,059	1,868
GREENE	1,261	1,290	2,551
HAMILTON	161	171	332
HERKIMER	789	1,029	1,818
JEFFERSON	1,230	1,655	2,885
KINGS	10,557	7,263	17,820
LEWIS	271	425	696
LIVINGSTON	1,333	1,231	2,564
MADISON	916	1,069	1,985
MONROE	3,973	3,673	7,646
MONTGOMERY	1,137	986	2,123
NASSAU	6,434	9,419	15,853
NEW YORK	5,801	2,887	8,688
NIAGARA	1,498	1,652	3,150
ONEIDA	5,334	5,094	10,428
ONONDAGA	7,342	6,626	13,968
ONTARIO	885	1,007	1,892
ORANGE	3,938	4,530	8,468
ORLEANS	597	783	1,380
OSWEGO	1,429	1,443	2,872
OTSEGO	1,147	1,068	2,215
PUTNAM	565	863	1,428
QUEENS	9,248	7,773	17,021
RENSSELAER	6,939	5,726	12,665
RICHMOND	2,991	3,105	6,096
ROCKLAND	2,849	2,710	5,559
SAINT LAWRENCE	2,918	3,137	6,055
SARATOGA	6,077	6,492	12,569
SCHENECTADY	5,953	5,240	11,193
SCHOHARIE	845	742	1,587
SCHUYLER	286	358	644
SENECA	683	610	1,293
ST LAWRENCE	14	8	22
STEUBEN	1,009	1,204	2,213
SUFFOLK	16,124	18,353	34,477
SULLIVAN	1,127	1,362	2,489
TIOGA	600	731	1,331
TOMPKINS	2,092	1,946	4,038
ULSTER	2,802	3,173	5,975
WARREN	909	1,124	2,033
WASHINGTON	1,078	1,319	2,397
WAYNE	902	907	1,809
WESTCHESTER	4,092	4,409	8,501
WYOMING	831	1,124	1,955
YATES	180	206	386
OTHERS	104	47	151
Total:	**190,364**	**182,526**	**372,890**

ATTACHMENT 17

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

NYSHIP Enrollment by NYS County and by State
"Health Maintenance Organizations
Specifications for the New York State Health Insurance Program"

NYSHIP Enrollment by State*

STATE	INDIVIDUAL	FAMILY	TOTAL
ALABAMA	206	69	275
ALASKA	12	4	16
ARIZONA	561	448	1,009
ARKANSAS	39	15	54
ARMED FORCES EUROPE	-	1	1
CALIFORNIA	559	248	807
COLORADO	189	103	292
CONNECTICUT	928	1,520	2,448
DELEWARE	199	178	377
DISTRICT OF COLUMBIA	54	25	79
FLORIDA	8,466	5,826	14,292
GEORGIA	933	449	1,382
HAWAII	33	14	47
IDAHO	24	16	40
ILLINOIS	123	73	196
INDIANA	72	26	98
IOWA	21	8	29
KANSAS	28	10	38
KENTUCKY	75	45	120
LOUISIANA	39	13	52
MAINE	152	98	250
MARYLAND	404	185	589
MASSACHUSETTS	500	278	778
MICHIGAN	111	63	174
MINNESOTA	48	16	64
MISSISSIPPI	60	13	73
MISSOURI	56	25	81
MONTANA	27	22	49
NEBRASKA	19	12	31
NEVADA	338	197	535
NEW HAMPSHIRE	144	86	230
NEW JERSEY	3,309	4,787	8,096
NEW MEXICO	120	47	167
NEW YORK	190,364	182,526	372,890
NORTH CAROLINA	1,985	1,250	3,235
NORTH DAKOTA	5	1	6
OHIO	179	61	240
OKLAHOMA	26	12	38
OREGON	99	46	145
PENNSYLVANIA	1,404	1,523	2,927
PUERTO RICO	49	33	82
RHODE ISLAND	81	24	105
SOUTH CAROLINA	1,267	1,040	2,307
SOUTH DAKOTA	12	19	31
TENESSEE	387	305	692
TEXAS	505	269	774
UTAH	29	23	52
VERMONT	184	149	333
VIRGIN ISLANDS	3	4	7
VIRGINIA	852	489	1,341
WASHINGTON	153	76	229
WEST VIRGINIA	53	31	84
WISCONSIN	51	22	73
WYOMING	15	9	24
Total:	**215,552**	**202,832**	**418,384**

* Does not include Participating Agencies

March 2020

ATTACHMENT 18

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

Employer Premium Contribution Rates– "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

Employer Premium Contribution Rates (1)

Ratified, Unratified, and Unrepresented Employees

Employees in titles allocated or equated to Salary Grade 9 and below; UUP Employees with annualized salaries less than $45,198	Employees in titles allocated or equated to Salary Grade 10 and above; UUP Employees with annualized salaries equal to $45,198 or more
Enrollee/Dependent - 88% / 73%	Enrollee/Dependent - 84% / 69%

Retirees

Retired prior to 1/1/83	Retired after 1/1/83 and prior to 1/1/12	Retired on or after 1/1/12 from a title allocated or equated to Salary Grade 9 or below	Retired on or after 1/1/12 from a title allocated or equated to Salary Grade 10 or above
Enrollee/Dependent - 100% / 75%	Enrollee/Depedent - 88% / 73%	Enrollee/Dependent - 88% / 73%	Enrollee/Dependent - 84% / 69%

Other Groups

Enrollees covered under Preferred List Provisions	Eligible Survivors of active Employees who died on or after 4/1/79 or of Retirees who retired on or after 4/1/79	Amended Dependent Survivors; Eligible survivors of active Employees who died between 4/1/75 and 3/31/79	Vestees, Long Term Disability Enrollees and all other Dependent Survivors
Enrollee/Dependent - 90% / 75%	Enrollee/Dependent - 90% / 75%	Enrollee/Dependent - 75% / 75%	Enrollee/Dependent - 0% / 0%

A Participating Employer's (PE) rate of contribution towards coverage for employees, retirees, and dependents shall be not less than 50 percent of the charge on account of individual coverage and 35 percent of the charge on account of dependent coverage, as required under Chapter V Regulations of the Department of Civil Service Part 73.3 (b).

(1)The State's dollar contribution for the non-prescription drug components of the HMO premium, will not exceed its dollar contribution for the non-prescription drug components of The Empire Plan premium.

ATTACHMENT 19

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service	**2020 NYSHIP Dependent Eligibility Rider - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"**

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 stepchildren 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; and

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;

c. the NYSHIP premium for the Young Adult is not paid in full within the 30-day grace period; or

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.

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

2019 Health Fairs and Events - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

Offeror Name: _____

NOTE: Add additional rows as necessary.

Employer Name	Date of Event	Event Description

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

Medicare Enrollment Format & Frequency "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

In the interest of maintaining accurate and up to date Medicare enrollment records, the Department requires that HMOs regularly communicate Medicare enrollment changes to the Department.

The Offeror must utilize the standardized Medicare enrollment reconciliation reporting format illustrated below. These reports must illustrate all Medicare enrollment status changes for the HMO's NYSHIP population and must be submitted to the Department on a **weekly** basis.

Example:

HMO Reports Standardized Format ← Heading must include HMO name, MAP name, and month reporting on.

BP	SSN	First Name	Last Name	MI	DEP #	MBI	Enroll	Disenroll	Txn Date	Status	TRC	Reason	Comment	EBD Comment
PR7	xxxxxxxxx	John	Smith	R	02	xxxxxxxxx	01/01/15	11/30/17	11/24/17	Disenrolled	090	Deceased 11/20/17		DOD matches CMS. NFA.
G04	xxxxxxxxx	Jane	Doe	Z	01	xxxxxxxxx	03/01/01	11/30/17	11/02/17	Disenrolled	014	Other coverage		
R01										Disenrolled	019	Loss PartA/B coverage		
										Disenrolled	032	No Part B		
										Disenrolled	POD	Missing address		
										Disenrolled	045	ESRD		
										Disenrolled	TRM	Voluntary cancel	↑ HMO adds comments if Reason column needs further explanation. This may include how the HMO handles claims (primary, secondary, etc) due to enrollment issue, if applicable. More information is always better than none.	
										Disenrolled		OOSA		
										Enrolled	288	Disenrollment cancelled		
										Enrolled	RNS	Reinstated		

Legend: ← This must include all TRC codes and personalized HMO codes from scrubbing process along with a definition that is easily understood by EBD staff.

011	Enrollment accepted
341	Maximum NUNCMO calculation (number of uncovered months calculated) – Member may be responsible for LEP if more than 63 days break in coverage and would receive an LEP letter from EmblemHealth if applicable
368	Member MSP (Medicare Secondary Payer) period exists

Note: The Department expects to automate the Medicare enrollment reconciliation process within the term of the HMO contract. If an automated Medicare enrollment reconciliation process is approved by the Department and implemented, the Department reserves the right to use that automated process in lieu of this Medicare enrollment file reconciliation process.

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

Statement of Disability Dependent 19 Years of Age or Older Form PS-451 – "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

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**

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

Statement of Disability Dependent 19 Years of Age or Older Form PS-451 – "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

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**

ATTACHMENT 22

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

Statement of Disability Dependent 19 Years of Age or Older Form PS-451 – "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

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 Health 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:

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

Statement of Disability Dependent 19 Years of Age or Older Form PS-451 –
"Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

Empire Plan Enrollees Mail To:	**HMO Enrollees Mail To:**
UnitedHealth care 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 Beacon Health Options. United HealthCare, the HMO or Beacon Health Options completes Part C and mails only Page 1 of the PS-451 to the Employee Benefits Division at the above address.

ATTACHMENT 23

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

NYSHIP Enrollment by Representation Group – "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

February 2020 - NYSHIP Enrollment Report by Group & Status

NYS by Group

Representation Group	Enrollees	Dependents	Total Lives
Retirees	152,676	76,195	228,871
PEF	46,859	60,314	107,173
CSEA	51,138	54,247	105,385
UUP	28,283	35,818	64,101
NYSCOPBA	19,876	31,451	51,327
M/C	17,629	23,020	40,649
COURTS	15,599	20,532	36,131
Dependent Survivors	15,490	674	16,164
PBA	3,694	6,810	10,504
PIA	1,150	3,102	4,252
GSEU	3,425	427	3,852
APSU	1,159	1,921	3,080
Council 82	521	1,134	1,655
Vestees	267	399	666
Extended Benefits	249	286	535
DC-37	285	202	487
Preferred List	43	31	74
LTD	2	-	2
Total NYS:	358,345	316,563	674,908

PA/PE by Status

PA/PE	Status	Enrollees	Dependents	Total Lives
PA	*Active*	102,991	169,528	272,519
	Retired	94,261	58,409	152,670
	Other	6,988	1,022	8,010
	Total PA	204,240	228,959	433,199
PE	*Active*	38,030	54,976	93,006
	Retired	19,622	16,229	35,851
	Other	1,906	545	2,451
	Total PE	59,558	71,750	131,308
	Total PA/PE	263,798	300,709	564,507

Total NYSHIP Enrollment	1,239,415

Notes/Assumptions

1. Representation Group number ONLY represent NYS (not PE or PA) enrollment.
2. Total NYSHIP Enrollment is the sum of Total "NYS by Group" and "PA/PE by Status".
3. Does NOT contain YAO lives.
4. Includes COBRA lives.
5. Previously counted Roswell Park lives as "NYS Actives" - Now moved to PE side.
6. COURTS include CSEA, COBANC and DC37 COURTS Lives.
7. M/C count includes Executive and Non-Executive lives.
8. M/C count includes BPs: A05, A19, A28, A29, A33, A34, A61, A62, C05, C07, and L19.

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

SAMPLE Schedule of Benefits – "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

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

<u>HMO:</u> Insert additional benefit information, descriptions such as customer service contact information, PCP information, wellness programs, etc.

SAMPLE

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service	**SAMPLE Side-by-Side Comparison – "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"**

HMO NAME
Side-by-Side Comparison
For New York State Employees
2020 to 2021

Sample if No Changes

Modified Benefit	2020 Benefit Level	2021 Benefit Level
There are no changes in either the benefits offered or delivery of services from 2020 to 2021		

Sample if Changes

Modified Benefit	2020 Benefit Level	2021 Benefit Level
Urgent Care Copay	$50 per visit	$35 per visit
Outpatient Surgery Facility	$30 per visit	$50 per visit

SAMPLE

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

Timeline of Key Events For Plan Year 2021 – "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

Release of Specifications for HMOs Participation in the New York State Health Insurance Program.	June 29, 2020
Proposal Due Date	July 27, 2020
Notification of Approval/Disapproval Date as described in Section 2.1(7) of 2021 Specifications.	August 14, 2020
Deadline for Submission of Premium Rates to the Department (including all applicable riders) as described in Section 1.5 of the 2021 Specifications and in compliance with requirements stated in the annual Premium Rate Call Letter sent by the DCS.	August 31, 2020 (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 5.2.5 of the 2021 Specifications (must be submitted to all JLMC Contact Members). Final versions of all communications materials must be provided to the JLMC Contact Members one (1) week prior to distribution to enrollees. HMO must submit confirmation to the Department upon completion of all member communications mailings.	October 21, 2020
Deadline for HMOs to submit copies of Optional Marketing Material to all JLMC Contact Members as described in Section 3.6(1)(q) of the 2021 Specifications.)	November 5, 2020
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. 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 2021

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

NYSHIP Authorization for Release of Protected Health Information – "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

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: _____

Telephone: _____ E-mail: _____

Name: _____

Street Address: _____

City, State, Zip: _____

Telephone: _____ E-mail: _____

Possibility of Redisclosure: It is possible that the person or organization you have named to receive this information may redisclose 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. 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)

_____

_____

_____

_____

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

NYSHIP Authorization for Release of Protected Health Information - RFP entitled: "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

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)
- ☐ On (Date): _____
- ☐ 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 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. This information will be used in accordance with Section 96 (1)(a) of the Personal Privacy Protection Law. This information will be maintained by the Director, Employee Benefits Division, Department of Civil Service, Albany, NY 12239; (518) 473-1977. For information relating only to the Personal Privacy Protection Law, call (518) 457-9375.

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

Notice of Intent –
"Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

Offeror Name: _____

Date: _____

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:

_____

_____

_____

_____

Name of Procurement Contact at Offeror: _____

Title: _____

Address: _____

Email Address: _____

Name of E-Page Contact at Offeror: _____

Title: _____

Address: _____

Email Address: _____

The completed form must be emailed to the Designated Contact as set forth in Section 2.1(1) of the RFP.

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

PS-457 Statement of Dependence – "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

Enrollment or Recertification of an "Other" Child as a NYSHIP Dependent

This form must be completed when an enrollee applies for coverage on behalf of a dependent child who is other than the enrollee's natural-born or adopted child, stepchild, or the child of the enrollee's Domestic Partner. For such a dependent to be eligible, the child must: (1) reside permanently in the enrollee's home and (2) receive more than 50 percent of support from the enrollee. Support must have commenced before the child reached age 19. If you have a dependent who meets these criteria, please complete this form and submit it, the required proof of support along with a completed Health Insurance Transaction Form (PS-404 for NY and PE enrollees, PS-503 for PA enrollees).

EMPLOYEE INFORMATION		
1. Last Name First Name MI	**2.** Social Security Number	**3.** Date of Birth
4. Home Address Street City State Zip		**5.** Sex ☐ Male ☐ Female
6. Telephone Numbers Primary: ( ) Work: ( )	**7.** Agency Name: Code:	

"OTHER" CHILD INFORMATION		
1. Last Name First Name MI		
2. Social Security Number	**3.** Date of Birth	**4.** Sex ☐ Male ☐ Female
5. This application is for: ☐ Initial Enrollment **OR** ☐ Recertification		

ENROLLEE STATEMENT

☐ **I provide at least 50 percent of the dependent's financial support.**

If you are applying for initial enrollment or recertifying an "other" child who is **under the age of 19**, please attach one proof that documents your support.

Examples of an acceptable proof of financial support include:

- A copy of your current year's federal tax return claiming the "other" child as a dependent;
- A letter from a CPA, an enrolled agent, or an attorney stating that you can claim the dependent on your current federal tax return; or
- Proof of legal guardianship.

☐ **My home address on file is this dependent's permanent legal residence.**

If you are recertifying your "other" child who is **age 19 or older**, please attach one proof that shows the dependent's residence matches your permanent address on file. The proof submitted must have been issued within 6 months of the application date.

Examples of an acceptable proof of residence for the dependent include:

- Bank statement;
- Paycheck stub;
- Driver's license or automobile registration;
- Tax return (current year);
- Telephone or utility bill; or
- Student billing statement from an educational institution.

☐ **I anticipate that the dependent will reside with me for at least 2 years.**

If less than 2 years, when do you expect that the dependent will no longer reside with you? _____
mm/dd/yyyy

Personal Privacy Protection Law Notification

The information you provide on this application is requested in accordance with Section 163 of New York State Civil Service Law for the principal purpose of administering the New York State Health Insurance Program. 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 interfere with our ability to comply with your request. This information will be maintained by the Director, Employee Benefits Division, Department of Civil Service, Albany, NY 12239; (518) 473-1977. For information relating only to the Personal Privacy Protection Law, call (518) 457-9375.

I understand that any false or misleading statements made on this form will subject me to financial responsibility for any benefits paid on behalf of my 'other' child. I understand that false statements may result in disciplinary action by my employer and/or result in criminal and/or civil penalties as well as other legal actions including the prosecution of insurance fraud as defined in NYS Penal Law, Section 176.05; NYCRR, Title 11, Section 86.4 and U.S. Code, Title 18, Section 1035.

Print Enrollee Name: _____

Enrollee's Signature: _____ Date: _____
(Sign in the presence of notary)

Acknowledgement to Be Completed by a Notary Public

State of _____ County of _____

On the _____ day of _____ in the year _____ before me, the undersigned, personally

appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/ their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public: _____
(Please sign and affix stamp)

For Office Use Only	
☐ **Initial enrollment or recertification for an "other" child under the age of 19**	☐ Copy of the Dependent's Birth Certificate ☐ Proof of Support (50% or more) ☐ Health Insurance Transaction Form
☐ **Recertification of an "other" child who is age 19 or older**	☐ Copy of the Dependent's Birth Certificate ☐ Proof of Dependent's Residence ☐ Health Insurance Transaction Form
☐ Approved ☐ Not Approved	Date transaction submitted to add dependent: _____
HBA Signature: _____	Date: _____

THIS FORM MUST BE RETAINED BY THE EMPLOYING AGENCY WITH THE ENROLLEE'S ENROLLMENT RECORDS

ATTACHMENT 30

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service	**SAMPLE Contract Rider and Summary - "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"**

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

ATTACHMENT 31

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

HMO Rate Submission Template
"Health Maintenance Organizations
Specifications for the New York State Health Insurance Program"

Offeror Name: _____

NYSHIP Option # ___

Rate Calculation for year beginning January 1, ____

	With Drugs		Without Drugs	
	Individual	**Family**	**Individual**	**Family**
Community Rates				
a. Basic Contract	_____	_____	_____	_____
Add: Riders				
b. Drug Rider	_____	_____		
c. Additional Riders				
Benefit A (Include Identification Number with Description)	_____	_____	_____	_____
Benefit B (Include Identification Number with Description)	_____	_____	_____	_____
Benefit C (Include Identification Number with Description)	_____	_____	_____	_____
Benefit D (Include Identification Number with Description)	_____	_____	_____	_____
1. Unadjusted Community Rates	**0.00**	**0.00**	**0.00**	**0.00**
2. Medicare Adjustments				
Medicare Rate(A)	_____	_____	_____	_____
Medicare Lives (Medicare primary enrollees/Medicare Primary dependents)	_____	_____	_____	_____
Estimated Monthly Adjustment	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Total Monthly Adjustment	#VALUE!			
Total HMO Enrollees	_____	_____	_____	_____
Total Cost of HMO Enrollees	#VALUE!			
Ratio to Total	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Distribution of Medicare Monthly Adjustment	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Per Enrollee Monthly Medicare Credit	#VALUE!	#VALUE!	#VALUE!	#VALUE!
NYSHIP Monthly Rates	**#VALUE!**	**#VALUE!**	**#VALUE!**	**#VALUE!**
NYSHIP Biweekly Rates	**#VALUE!**	**#VALUE!**	**#VALUE!**	**#VALUE!**

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

CHOICES Guide page -
"Health Maintenance Organizations
Specifications for the New York State Health Insurance Program"

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
Prenatal and postnatal visits
Bone density tests
Family planning services
Infertility services
Contraceptive drugs and devices
Inpatient hospital surgery
Outpatient surgery
Emergency department
Dialysis
Urgent Care Facility
Ambulance (must note if airborne ambulance transportation is excluded)
External mastectomy prosthesis
Telemedicine
Outpatient mental health (Individual)
Outpatient mental health (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
Breastfeeding services & equipment
Weight loss/bariatric surgery

In its electronic submission, an HMO 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”.

An HMO 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 an HMO’s prescription drug benefit must include the type of Prescription Drug Formulary employed by the HMO (e.g., Open, Closed or Incented Formulary).

An HMO 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 the 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

An HMO will be asked to include its website address in the HMO ePage tool, which is the electronic *Choices* page interface that an HMO completes on an annual basis.

Two additional pages will be allowed in Retiree *Choices* for HMOs that offer an approved Medicare Advantage Plan. Such an HMO will submit information for both its Commercial and Medicare Advantage plans via two separate tabs in the HMO ePage tool.

Recommended Logo Specifications:

Vector (Adobe Illustrator) file
Any text must be outlined

<u>If no vector file is available:</u>

High resolution (high quality) .jpg, .tif or press-quality pdf
Resolution should be a minimum of 300 ppi in Photoshop
For Photoshop files, logo dimensions should be at least 3” wide by 1” high

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
Dialysis	$ per visit
Women's Health Care/Reproductive Health	
Pap Tests	$ per visit
Mammograms	$ per visit
Prenatal Visits	$ per visit
Postnatal Visits	$ per visit
Bone Density Tests	$ per visit
Breastfeeding Services	$ per visit
External Mastectomy Prosthesis	$ copayment
Family Planning Services	$ per visit
Infertility Services	$ per visit
Contraceptive Drugs	$ copayment
Contraceptive Devices	$ copayment
Inpatient Hospital Surgery	
Physician	$ copayment
Facility	$ copayment
Outpatient Surgery	
Hospital	$ copayment
Physician's Office	$ copayment
Outpatient Surgery Facility	$ copayment
Emergency Department	$ per visit
Urgent Care Facility	$ per visit
Ambulance	$ per trip

Benefits	Enrollee Cost
Outpatient Mental Health	
Individual	$ per visit
Group	$ per visit
Inpatient Mental Health max # days	$ copayment
Outpatient Drug/Alcohol Rehab max # visits	$ per visit
Inpatient Drug/Alcohol Rehab max # days each	$ copayment
Durable Medical Equipment	$ per item
Prosthetics	$ per item
Orthotics	$ per item
Rehabilitative Care, Physical, Speech and Occupational Therapy	
Inpatient, max # days	$ copayment
Outpatient, max # visits	$ per visit
Outpatient Speech Therapy max # days	$ per visit
Diabetic Supplies max supply	$ per item
Insulin and Oral Agents max supply	$ per prescription
Diabetic Shoes max # pairs	$ per pair
Hospice, max # days	$ copayment
Skilled Nursing Facility max # days	$ copayment
Prescription Drugs	
Retail, 30-day supply $ generic/$ formulary brand /$non-formulary	
Mail Order, up to 90-day supply $ generic/$ formulary brand/$ non-formulary	
Coverage includes fertility drugs, injectable and self-injectable medications and enteral formulas.	
Specialty Drugs (Describe how drugs are obtained, including copayment/coinsurance amounts, coverage limits, exclusions, etc.)	

[1] Footnotes here.

Additional Benefits

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.

Maternity
Physician's charge for delivery .....$ copayment

Telemedicine.....$ per visit

HMO may also list other benefits not covered by the minimum benefit requirements. Examples: Wellness Services, Smoking Cessation

Plan Highlights for 20XX
(New highlights for upcoming plan year)

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, Open Formulary** or Closed Formulary)

Medicare Coverage
(Descriptive text – include **Medicare Advantage Plan** or **Coordinates Coverage with Medicare** as appropriate.)

Important Note: Only participating providers in the counties listed below are part of this HMO's network within NYSHIP. Please be sure to check before receiving care that your provider participates with this HMO's NYSHIP network.

NYSHIP Code Number
(To be determined for new HMOs only).

A (model type) HMO serving Individuals living or working in the following select counties

(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: An HMO will have approximately 4,250 characters in which to describe all benefits on these pages, not including the section that includes the NYSHIP Code Number, HMO service area and HMO contact information. An HMO may elaborate within many of the other sections, but please keep the overall character limit in mind.

[2] Footnotes continued

ATTACHMENT 35

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

Commercial Benefits Chart "Health Maintenance Organizations Specifications for the New York State Health Insurance Program"

Offeror Name:

HMO BENEFITS FOR 2021 -- 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 2020 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2021	
		Contract/ COC	Rider Number					Individual	Family
Office Visit	Covered as required by Federal and NYS law and/or regulation								
Specialty 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/Surgical 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								
Pathology	Covered as required by Federal								

Offeror Name:

HMO BENEFITS FOR 2021 -- 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 2020 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2021	
		Contract/ COC	Rider Number					Individual	Family
[illegible]	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, and ACA								
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 aortic aneurysm screening	Covered as required by Federal and NYS law and/or regulation								
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									
	Covered as required by Federal and NYS law and/or								

Offeror Name:

HMO BENEFITS FOR 2021 -- 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 2020 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2021	
		Contract/ COC	Rider Number					Individual	Family
Pre- and Post Natal Visits	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 and the infertility mandates of 2002 and 2019								
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									
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								

Offeror Name:

HMO BENEFITS FOR 2021 -- 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 2020 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2021	
		Contract/ COC	Rider Number					Individual	Family
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								
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 replacements, artificial joints, external breast prostheses & Ostomy Supplies. Replacements, repairs and								

Offeror Name:

HMO BENEFITS FOR 2021 -- 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 2020 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2021	
		Contract/ COC	Rider Number					Individual	Family
	maintenance, not provided for under 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.								
Additional Benefits									

ATTACHMENT 36

Offeror name:

HMO BENEFITS FOR 2021 - 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 2020 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2021
		EOC	Rider					Individual
Office Visit								
Specialty 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/Surgical Settings								
Radiology								

Offeror name:

HMO BENEFITS FOR 2021 - 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 2020 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2021
		EOC	Rider					Individual
Lab Tests								
Pathology								
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								

Offeror name:

HMO BENEFITS FOR 2021 - 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 2020 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2021
		EOC	Rider					Individual
Rehabilitative Care, Physical, Speech & Occupational Therapy								
Inpatient Rehabilitative Care								
Outpatient Rehabilitative Care								
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								
Other								

Offeror name:

HMO BENEFITS FOR 2021 - 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 2020 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2021
		EOC	Rider					Individual
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.							

Offeror name:

HMO BENEFITS FOR 2021 - 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 2020 Enter: Yes/No and change, e.g., $5 copay increase, new benefit	Projected Monthly Premium for 2021
		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								