

**New York State Department of Civil Service  
and  
UnitedHealthcare Insurance Company of New York  
Ninth Amendment  
Group Insurance Policy Numbers 30500-G; 30501-G and 30502-G**

**THIS NINTH AMENDMENT** (the “Amendment”) is entered into by the NEW YORK STATE DEPARTMENT OF CIVIL SERVICE (“DCS” or “Department” or “Employer”) on behalf of the STATE OF NEW YORK and UNITEDHEALTHCARE INSURANCE COMPANY OF NEW YORK, (the “Insurance Company”) referred to collectively as “the Parties”.

**WHEREAS**, the Group Insurance Policies numbered 30500-G; 30501-G and 30502-G (individually or collectively the “Policy” or “Policies”), as amended, provides certain agreed upon services and medical and surgical benefits insurance coverage, but not basic hospital insurance nor mental health/substance abuse insurance for Members of certain Employee Groups covered by the Employer; and

**WHEREAS**, the Parties agree that the stated Policies will renew and the premium rates are amended; and

**WHEREAS**, the Insurance Company agrees to release any Disabled Lives Reserve in exchange for transferring the funding of the Disabled Lives Benefit liability to the Department; and

**WHEREAS**, the Parties agree to restate and/or amend certain provisions of the Policies.

**NOW, THEREFORE**, in consideration of the mutual promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

- I. Schedule of Premiums, in each of the Policies Nos. 30500-G, 30501-G and 30502-G are hereby revoked in their entirety and replaced with new Schedule of Premiums which is attached to this Amendment as Exhibit A.
- II. That portion of the Schedule of Premiums for Group Insurance Policy No. 30500-G that addressed administrative costs for Additional Services is hereby made into a new Attachment I to the Schedule of Premiums titled “Administrative Cost Schedule”. This new schedule is attached to this Amendment as Exhibit B and this Administrative Cost Schedule will apply to all Policies collectively.
- III. The performance standards included in Group Policy 30500-G as Article XVIII and in Group Policies Nos. 30501-G and 30502-G as Article XV are restated in this Amendment and are included as Exhibit C.
- IV. Article XXVII titled “Additional Services” in Group Policy 30500-G is restated in this Amendment and is included as Exhibit D and these additional services will apply to all Policies.
- V. The provision titled “Savings and Return on Investment Guarantees” included in Group Policy 30500-G as Article XXX and in Group Policies Nos. 30501-G and 30502-G as Article XXVII are restated in this Amendment and are included as Exhibit E.
- VI. The provision titled “Utilization Review Procedures” and included as Exhibit 6 to Group Policy 30500-G and as Exhibit 4 to Group Policies Nos. 30501-G and 30502-G are restated in this Amendment and are included as Exhibit F.

Ninth Amendment  
State of New York  
Contract Nos. 30500-G; 30501-G and 30502-G

- VII. The provision titled "Use and Disclosure Of Protected Health Information" included in Group Policy 30500-G as Article XXIX and in Group Policies Nos. 30501-G and 30502-G as Article XXVI are hereby revoked in their entirety and replaced in this Amendment and are included as Exhibit G.
- VIII. The provision titled "External Access/Nondisclosure Agreement" and included as an Exhibit 9 to Group Policy 30500-G and as Exhibit 7 to Group Policies Nos. 30501-G and 30502-G are hereby revoked in their entirety and replaced in this Amendment and are included as Exhibit H.
- IX. Appendices A to the Group Insurance Policies titled "Standard Clauses For All New York State Contracts" are hereby revoked in their entirety and replaced with a new Appendix A, dated November 2010, which is attached to this Amendment as Appendix A.
- X. Appendices B to the Group Insurance Policies titled "Contract Compliance with Executive Order No. 127" are restated in this Amendment as Appendix B.
- XI. Appendix C titled "Third Party Connection and Data Exchange Agreement" is added to the Policies as Appendix C.
- XII. Except as expressly amended by this Ninth Amendment, all the terms and conditions of the original Group Policies Nos. 30500-G, 30501-G, and 30502 and any amendments thereto shall remain in full force and effect.
- XIII. This Ninth Amendment shall be deemed effective January 1, 2010 unless indicated otherwise.

**IN WITNESS WHEREOF**, the Parties hereto have hereunder signed this Amendment No. 9 to Policy Numbers 30500-G; 30501-G and 30502-G on the day and year appearing opposite their respective signatures.

Agency Certification: "In addition to the acceptance of this contract amendment, I also certify that original copies of this signature page will be attached to all exact copies of this contract."

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE**

**DEIRDRE TAYLOR  
DEPUTY COMMISSIONER FOR ADMINISTRATION**

By: \_\_\_\_\_

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

**UNITEDHEALTHCARE INSURANCE COMPANY OF NEW YORK**

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

By \_\_\_\_\_

Name: \_\_\_\_\_

Title \_\_\_\_\_

STATE OF )  
                  ) ss:  
COUNTY OF )

On the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me personally came \_\_\_\_\_, to me known, and known to me to be the person who executed the above instrument, who, being duly sworn by me, did for her/himself depose and say that (s)he is the \_\_\_\_\_ of \_\_\_\_\_ the corporation or organization described in and which executed the above instrument; and that (s)he signed his/her name thereto.

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NOTARY PUBLIC

**SCHEDULE OF PREMIUMS**

**MEDICAL/SURGICAL  
BENEFITS INSURANCE**

The following premium rates shall be in effect for the period January 1, 2010 through December 31, 2010 and shall apply to the employee groups and the Group Insurance Policy as indicated herein:

<u>Employee Group with Plan</u>		<u>Premium Rate per Employee</u>		<u>SEHP</u>	
<u>Changes</u>		<u>Employee Group without Plan</u>			
<u>Individual Insurance</u> (Monthly/ Biweekly)	<u>Family Insurance</u> (Monthly/ Biweekly)	<u>Individual Insurance</u> (Monthly/ Biweekly)	<u>Family Insurance</u> (Monthly/ Biweekly)	<u>Individual Insurance</u> (Monthly/ Biweekly)	<u>Family Insurance</u> (Monthly/ Biweekly)

Policy No. 30500-G

\$161.38/\$74.28    \$383.59/\$176.56    \$162.20/\$74.66    \$385.54/\$177.45    \$52.89/\$24.34    \$200.48/\$92.28

Policy No. 30501-G

\$38.01/\$17.50    \$87.51/\$40.28    \$37.82/\$17.41    \$87.08/\$40.08

Policy No. 30502-G

<b>Individual Insurance</b> (Monthly)	<b>Family Insurance</b> (Monthly)
\$58.94	\$135.69

Under the 5-tier structure for Participating Agencies, the monthly premium rates are as follows:

Policy No. 30500-G

Premium Rate per Employee				
Plan Prime		MediPrime		
Individual Insurance	Family Insurance	Individual Insurance	Family Insurance (1 Additional)	Family Insurance (2 or more)
\$216.81	\$460.01	\$71.85	\$315.05	\$170.09

Policy No. 30502-G

Premium Rate per Employee				
Plan Prime		MediPrime		
Individual Insurance	Family Insurance	Individual Insurance	Family Insurance (1 Additional)	Family Insurance (2 or more)
\$79.96	\$165.70	\$23.74	\$109.48	\$53.26

The Employer guarantees the difference in premiums due to the Insurance Company should the 5-tier rate structure generate less premium than the 2-tier rate structure. Conversely, in the event the 5-tier rate structure generates more premium than the 2-tier structure, the Insurance Company shall return such excess.

The Excelsior Plan is included in Group Policy 30500-G and for the period January 1, 2010 through December 31, 2010, the 2 tier rates are as follows:

- [REDACTED] per Employee per month for individual insurance
- [REDACTED] per Employee per month for family insurance

Using historical Participating Agency experience, a factor of [REDACTED] applied to the combined Core and PA Enhancement premium rates was developed for the Excelsior Plan Medical premium. Uncertainty of actual enrollments and subsequent claim experience for the 2010 policy year requires that the Insurance Company establish parameters for setting the premium using this factor approach. This factor approach will be used to set premiums until this program reaches credibility from both an enrollment and claim history perspective. Credibility is defined as [REDACTED] or more members consistently enrolled for twelve or more months with a minimum of three months of run-out in order to substantially complete the year.



Disabled Lives Benefit claim payments made by the Insurance Company after the last day of coverage shall be reimbursed by the Employer on a monthly basis.

**SCHEDULE OF PREMIUMS – ATTACHMENT I  
ADMINISTRATIVE COST SCHEDULE**

Included in the premium rates are the following administrative costs of the Additional Services provided under the Group Policy, combined, for the period January 1, 2010 through December 31, 2010 unless indicated otherwise. With the exception of Communication Support Services, the following administrative fees include the Insurance Company's expense load:

1. **Managed Physical Medicine Program**

- [REDACTED] per Member per month

The cost for this program is applicable to all Empire Plan Members. "Members" means Employees and Dependents covered by the Plan

2. **Empire Plan NurseLine<sub>SM</sub> Program**

With the implementation of the integrated Disease Management Program on March 1, 2007, Nurseline

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



Fees used in the development of premium rates shall be based on the preceding 12 months of utilization ending on March 1<sup>st</sup> of each year.

The cost for this program is applicable only to Members of certain Employee Groups designated by DCS for which the benefit has been collectively bargained or administratively extended.

3. **Disease Management Program**

- [REDACTED] per Member per month effective March 1, 2009

The cost for this program is applicable to Empire Plan Primary Members [REDACTED] for which the benefit has been collectively bargained or administratively extended.

4. **Network Integration**

- [REDACTED] per Employee residing in the integrated states per month (excluding directory printing).

The standard access fee for this program is derived from the monthly enrollment (contracts) in the integrated states, [REDACTED] market beginning on March 1, 2008, times the monthly fee. Directory printing costs are not included in this premium rate and will be charged to the plan as produced on a cost plus basis with an [REDACTED] added.

5. **Benefits Management Program including Prospective Procedure Review for elective Magnetic Resonance Imaging (MRI), Voluntary Specialist Consultant Evaluation and Voluntary Medical Case Management**

The administrative cost for these services shall be based on the actual cost incurred by the Insurance Company.

**Prospective Procedure Review** effective July 1, 2008

- [REDACTED] per transaction or [REDACTED] per Member per month (vendor fees are [REDACTED] per transaction, not to exceed [REDACTED] per Member per month) for MRA, CT, PET and Nuclear Medicine (including Nuclear Cardiology) procedures. Comparison and reconciliation of per Member per month vs. per transaction fees are to be performed annually on each July 1st.
- [REDACTED] per transaction or [REDACTED] per Member per month (vendor fees are [REDACTED] per transaction, not to exceed [REDACTED] per Member per month) for MRI procedures. Comparison and reconciliation of per Member per month vs. per transaction fees are to be performed annually on each July 1st.

6. **Consolidated Toll-Free Service.**

- [REDACTED] per Employee per month for operational oversight, technological coordination and monthly reporting on call volume and trends.

- Charges for script storage, script usage, transfer connect, and toll-free usage are [REDACTED]  
[REDACTED]  
[REDACTED].

7. **Basic Medical Provider Discount Program.** effective October 1, 2004

- A) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] BMPDP fees are subject to review and approval of the Department.

- B) [REDACTED]  
[REDACTED]  
[REDACTED]

8. **Cancer Resource Services.** effective October 1, 2004

- [REDACTED] per employee per month effective with the groups bargained or administratively extended effective date.

9. **Drug Rebates** effective January 1, 2004

[REDACTED] of the Drug Rebates the Insurance Company receives in connection with prescription drug products dispensed to Members under the Plan's medical benefit. (The remaining [REDACTED] of the rebates are to be retained by the Employer.)

10. **Prosthetic and Orthotic Provider Network.**

- [REDACTED] per Member per month for Non-Medicare primary members who reside in New York State and for which the benefit has been collectively bargained or administratively extended.

11. **Communication Support Services.**

Budgeted amount to be allocated for the 2010 calendar year is as communicated by the Employer in the annual rate approval letter to the Insurance Company.

12. **Workers Compensation Recovery Program.** effective April 1, 2007

- [REDACTED] of gross recoveries made resulting from this program.

13. **Outpatient Surgical Facility Claims Services**, effective August 1, 2007

- [REDACTED] per month for the repricing of claims for outpatient surgical facility fees.

14. **Kidney Resource Services (KRS) Program (Excludes SEHP Members)**, effective July 1, 2008

- [REDACTED] per Member per month

The cost for this program is applicable to Empire Plan Primary Members (excludes SEHP) for which the benefit has been collectively bargained or administratively extended.

15. **Taxes Assessments & Surcharges**

- **Taxes:** Premium tax is [REDACTED] of the amount up to the total of all claims, reserves, claim and administrative costs, other retention, but is subject to change, during the term of the Agreement if the rate as determined by governmental/regulatory agencies changes.
- **New York State Insurance Department Assessment:** New York State Insurance Department Assessment shall be charged using the imputed percentage based on the assessment levied by the Department of Insurance; the imputed percentage will be applied to total of all claims, reserves, claim and administrative costs and other retention. The assessment is subject to change, during the term of the Agreement if the rate determined by governmental/regulatory agencies changes. The final assessment will be reconciled and charged based on the final assessment levied by the New York State Insurance Department.
- **Metropolitan Transportation Business Tax Surcharge (MTA Surcharge):** Transportation Business Tax Surcharge shall be [REDACTED] of the premium tax rate applied to the premium for enrollees residing in the Metropolitan Commuter Transportation District (MCTD). The surcharge is subject to change, during the term of the Agreement if the rate as determined by governmental/regulatory agencies changes.
- **New federal or state tax, assessment or surcharge:** as implemented during the term of the Agreement at the rate determined by governmental and regulatory agencies.

16. **Other Charges/Credits**

- **Expense Load:** The Insurance Company will apply an incremental [REDACTED] to the Insurance Company's portion of Communication Support Services and all administrative expenses except for those listed in Additional Services Exhibit D of this amendment.
- **Risk Charge:** The Risk Charge for policy year 2010 is calculated annually as final earned premium less the experience gain (loss), as displayed in the final financial statement, multiplied by [REDACTED]

**PERFORMANCE STANDARDS.**

The Insurance Company agrees to a Performance Standards Program in the following areas of Policy administration: (a) claim payment accuracy, (b) customer service accuracy, (c) claim turnaround time, (d) telephone blockage, (e) telephone speed to answer, and (f) telephone abandonment rate. This program includes Group Policy Nos. 30500-G, 30501-G and 30502-G as they are combined on a claim payment basis. These standards apply to the medical benefits and are effective for the period January 1, 2010 through December 31, 2010 and each annual period, otherwise referred to the "Guaranteed Period" thereafter while the contract is in force unless stated otherwise.

If the Insurance Company's level of performance falls below the established standards for a Guarantee Period, financial penalties shall be assessed the Insurance Company by the Employer. Measurement of each of the foregoing areas may be established by using statistical estimate techniques or other mutually accepted methods. [REDACTED]

Additional performance standards may be established for other areas of policy administration as mutually agreed to between the parties. The Employer and the Insurance Company shall agree on the implementation date(s), the level of the standard(s) and the penalty(ies) to apply.

(a) **Claim Payment Accuracy.** Claim payment accuracy shall measure any mispayment of benefits caused by the Insurance Company. The claim payment accuracy rate is measured on a calendar year basis and is equal to the number of claims paid correctly divided by the number of claims reviewed, as shown in the formula below.

*Formula for Claim Payment Accuracy:*

$$\text{Claim Payment Accuracy Rate} = \frac{\text{Number of Claims Paid Correctly}}{\text{Number of Claims Reviewed}}$$

*Standard for Claim Payment Accuracy:*

[REDACTED]

*Performance Penalty for Claim Payment Accuracy:*

If the Claim Payment Accuracy Rate, as calculated above, is determined to be statistically significant (i.e. the upper confidence limit is less than the standard) the difference between the Claim Payment Accuracy Rate and the standard shall be used to calculate any penalty due.

- For each [REDACTED], or part thereof, by which the Claim Payment Accuracy Rate falls below [REDACTED] for a calendar year, a penalty of [REDACTED] shall be assessed.

- The maximum penalty for this measurement shall be [REDACTED] per calendar year.
- An additional penalty of [REDACTED] shall be assessed if the Claim Payment Accuracy Rate is below the standard and is lower, by [REDACTED] or greater, than that for the prior year.



(b) **Customer Service Accuracy.** Customer Service Accuracy shall measure the accuracy of claims processed by the Insurance Company relative to items that are visible to, and affect, the customer (i.e. the Enrollee or the provider).

*Formula for Customer Service Accuracy:*

$$\text{Customer Service Accuracy Rate} = \frac{\text{Number of Claims With No Customer Service Errors}}{\text{Number of Claims Reviewed}}$$

*Standard for Customer Service Accuracy:*

[REDACTED]

*Performance Penalty for Customer Service Accuracy:*

- If the Customer Service Accuracy Rate, as calculated above, is determined to be statistically significant (i.e. the upper confidence limit is less than the standard) the difference between the Customer Service Accuracy Rate and the standard shall be used to calculate any penalty due.
- For each [REDACTED] or part thereof, by which the customer service accuracy rate falls below [REDACTED] for a calendar year, a penalty of [REDACTED] shall be assessed.
- The maximum penalty for this measurement shall be [REDACTED] per calendar year.

(c) **Claim Turnaround Time.** Claim Turnaround Time shall measure the number of calendar days elapsed from the time the Insurance Company receives a claim to the time a claim action is taken (e.g. a benefit check is issued, a benefit statement is mailed, additional information is requested, etc.). The Claim Turnaround Time standard pertains only to non-participating provider claims.

*Formula for Claim Turnaround Time:*

$$\text{Turnaround Time Rate} = \frac{\text{Number of Claims Within the Standard}}{\text{Number of Claims Reviewed}}$$

*Standards for Claim Turnaround Time:*

- [REDACTED] of claims received by the Insurance Company in a calendar year must be processed within [REDACTED] of receipt.
- [REDACTED] of claims received by the Insurance Company in a calendar year must be processed within [REDACTED] of receipt.

*Performance Penalty for Claim Turnaround Time:*

- If the Turnaround Time Rate, as calculated above, is determined to be statistically significant (i.e. the upper confidence limit is less than the standard) the difference between the Turnaround Time Rate and the standard shall be used to calculate any penalty due.
  - For each [REDACTED] or part thereof, by which the Turnaround Time Rate falls below the standard in each category for a calendar year, a penalty of [REDACTED] shall be assessed.
  - The maximum penalty for this measurement shall be [REDACTED] per calendar year.
- (d) **Telephone Blockage.** Telephone Blockage shall measure overflow calls to the dedicated claims office that sequence through it's automated call distribution system in a calendar year. Overflow calls are calls that are placed to the 800# and receive a busy signal at the point they are connected to the dedicated claims office (not including the Managed Physical Medicine Program but effective July 1, 2002 including calls to the Care Coordination Unit). Telephone Blockage shall be tracked by the Call Management System (CMS) and reported by the Monthly Trunk Group Summary Report.

*Formula for Telephone Blockage:*

$$\text{Telephone Blockage Rate} = \frac{\text{Number of Overflow Calls}}{\text{Number of Calls Placed to the 800\#}}$$

*Standard for Telephone Blockage:*  
[REDACTED] blockage.

*Performance Penalty for Telephone Blockage:*

If the Telephone Blockage Rate, as calculated above, is determined to be above the standard, the difference between the Telephone Blockage Rate results and the standard shall be used to calculate any penalty due.

- For each [REDACTED], or part thereof, by which the Telephone Blockage Rate exceeds [REDACTED] for a calendar year, a penalty of [REDACTED] shall be assessed.
- The maximum penalty for this measurement shall be [REDACTED] per calendar year.

(e) **Telephone Speed to Answer.** Telephone Speed to Answer shall measure the number of calls to the dedicated claims office that sequence through it's automated call distribution system that are answered by a service representative within [REDACTED] relative to the total calls received by the dedicated claims office (not including the Managed Physical Medicine Program but effective July 1, 2002 including calls to the Care Coordination Unit) in a calendar year. Telephone Speed to Answer shall be tracked by the Call Management System (CMS) and reported by the Monthly Split/ Skill Call Profile Report.

*Formula for Telephone Speed to Answer:*

$$\text{Telephone Speed to Answer Rate} = \frac{\text{Number of Calls answered within [REDACTED]}}{\text{Number of Calls Received by the 800\#}}$$

*Standard for Telephone Speed to Answer:*  
[REDACTED]

*Performance Penalty for Telephone Speed to Answer:*

If the Telephone Speed to Answer Rate, as calculated above, is determined to be below the standard, the difference between the Telephone Speed to Answer Rate results and the standard shall be used to calculate any penalty due.

- For each [REDACTED] or part thereof, by which the Telephone Speed to Answer Rate falls below [REDACTED] for a calendar year, a penalty of [REDACTED] shall be assessed.
- The maximum penalty for this measurement shall be [REDACTED] per calendar year.

(f) **Telephone Abandonment Rate.** The Telephone Abandonment Rate shall measure calls to the dedicated claims office that sequence through its automated call distribution system that are abandoned relative to the total calls received by the dedicated claims office (not including the Managed Physical Medicine Program but effective July 1, 2002 including calls to the Care Coordination Unit) in a calendar year. Abandoned calls are hang-up calls that occur before a service representative can answer and service the call. Any calls abandoned within the [REDACTED] shall not be considered in calculating the Telephone Abandonment Rate. The Telephone Abandonment Rate shall be tracked by the Call Management System (CMS) and reported by the Monthly System Report.

*Formula for Telephone Abandonment Rate:*

$$\text{Telephone Abandonment Rate} = \frac{\text{Number of Abandoned Calls}}{\text{Number of Calls Received by the 800\#}}$$

*Standard for Telephone Abandonment Rate:*

[REDACTED]

*Performance Penalty for Telephone Abandonment Rate:*

If the Telephone Abandonment Rate, as calculated above, is determined to be above the standard, the difference between the Telephone Abandonment Rate results and the standard shall be used to calculate any penalty due.

- For each [REDACTED] or part thereof, by which the Telephone Abandonment Rate exceeds [REDACTED] for a calendar year, a penalty of [REDACTED] shall be assessed.
- The maximum penalty for this measurement shall be [REDACTED] per calendar year.

**Targeted Audits**

Targeted audits which focus on specific issues or areas of the Plan will be conducted by the Employer as necessary. [REDACTED]

[REDACTED]

[REDACTED]

The Employer shall develop audit rules, to be approved by the Insurance Company, to define the measurement of the Insurance Company's performance against these standards. These audit rules may be amended or changed by the Employer, with the consent of the Insurance Company, for each annual audit period. The rules shall not be construed as preventing the Employer's auditors or the Insurance Company from exercising independent professional judgment in the performance of the audit or in the review of the audit results, respectively.

**Change in Reporting Format.**

The Insurance Company reserves the right from time to time to replace any report or change the format of any report referenced in these standards. In such event, the changes must be mutually agreed upon by both parties and the report will be modified to the degree necessary to carry out the intent of the parties.

**ADDITIONAL SERVICES**

In addition to the insurance provided by this Policy, the Insurance Company shall provide the following additional services beginning as of an effective date agreed to by the Employer and the Insurance Company, for the employee groups designated by the Employer.

The cost for these additional services are included in the premium rates agreed to by the parties:

**1. Managed Physical Medicine Program (as implemented on August 1995)**

The Insurance Company will provide access to a Managed Physical Medicine Program ("Program").

A Managed Care Network will be made available to Employees and their Dependents, located in those geographical sites agreed to by the Parties. The Network shall include Providers who render chiropractic treatment, physical and occupational therapies. These Network Providers will be included in a directory of providers with periodic updates and/or telephonic access to the information in the directories.

The contracted health care providers participating in the Managed Care Network can change at any time. Notice on changes will be given in advance or as soon as reasonably possible.

The Insurance Company will maintain a grievance process so that Members may obtain assistance with, and express their opinions about, their use of the Managed Care Network.

The Insurance Company does not employ Network Providers and they are not the Insurance Company's agents or partners. Network Providers participate in Managed Care Networks only as independent contractors. Network Providers and the Members are solely responsible for any health care services rendered to Members that are not covered under the benefits provided by the Insurance Company.

**2. Empire Plan NurseLine<sub>SM</sub> Program (as implemented on February 1, 2000).**

The Insurance Company will provide Participants with communication materials as mutually agreed upon by the Employer and the Insurance Company, and Empire Plan NurseLine<sub>SM</sub>, a 24-hour, seven (7) days per week service providing general health information, the identification of specific health related concerns, direct the caller to the right setting to meet their health concern as well as education information regarding those concerns, by registered nurses by telephone or via an audio health information library.

**3. Disease Management Program (as implemented on dates indicated)**

The Insurance Company shall offer agreed upon Program services to Members. The Insurance Company will provide access to various Disease Management Programs to the Employee groups designated by the Employer.

The parties agree that the Insurance Company will not disclose to the Employer, the Employer's auditors, or other third parties, the unencrypted identity of Members enrolling in the Program without the Member's written consent.

From claims data received, the Insurance Company will determine those Members who may benefit from the Program. The Insurance Company shall extend invitations to all eligible Members who meet program criteria and may benefit from the Program and shall offer the Members the opportunity to participate in the Program.



As Implemented on March 1, 2007, the Insurance Company will provide an Integrated Disease Management Program for the conditions of diabetes, asthma, cardiovascular/coronary artery disease, heart failure, and chronic obstructive pulmonary disease independently or through a third party contracted entity or affiliate as proposed by the Insurance Company and approved by DCS. This Integrated Disease Management Program will replace all Disease Management programs previously provided.

The Insurance Company can terminate the disease management services in whole or in part at any time, after providing the Department at least ninety (90) days prior written notice of such termination, for any reason if such termination applies to all of its similarly situated customers. After the initial twelve (12) months of disease management services under this Agreement, the Employer may terminate the disease management services with ninety (90) days prior written notice.

### **Network Integration**

The Insurance Company will make available to the Employer access to agreed upon UnitedHealthcare PPO Networks outside the State of New York. The Insurance Company will conduct an analysis periodically and make recommendations to the Employer regarding which states could realize improved participating provider access for Employees and Dependents residing or traveling outside the State of New York if the UnitedHealthcare PPO Network were made available. If the Employer and the Insurance Company agree to add a PPO network in a state or market, the Insurance Company will take a reasonable time to implement appropriate system changes, effectively communicate any changes to Employees, Dependents and the participating providers and conduct any training necessary for the customer and provider relations staff.

### **5. Benefit Management Program (as implemented on January 1, 2002 and expanded Prospective Procedure Review on July 1, 2008)**

The Insurance Company will provide various Benefit Management Programs administered by the Insurance Company to the Employer Groups designated by the Employer. Benefit Management Programs include: Prospective Procedure Review, Voluntary Medical Case Management, and Voluntary Specialist Consultant Evaluation.

For services that require Prospective Procedure Review, the Insurance Company will review submitted medical information and compare to nationally accepted medical criteria to determine the appropriateness of the procedure. The Insurance Company will refer services that initially fall outside of the medical criteria to a board certified practicing physician for additional review. The Insurance Company will notify enrollees, in writing, of the outcome of the Prospective Procedure Review within 3 (three) business days of receipt of all information needed to complete the review.

The Insurance Company will identify through claims analysis and consultation with the Hospital Program Insurer, members who may benefit from Medical Case Management. The Insurance Company will offer voluntary participation in the Program to members meeting the criteria. For members who agree to participate in the Program, and in consultation with the treating physician, the Insurance Company will develop and implement a treatment plan which may include home care covered under HCAP, physical therapy covered under the MPMP, as well as alternate benefits for services/care which are not covered under the Empire Plan benefit design, unless authorized as part of an MCM case.

The Insurance Company will provide members who contact them regarding a Voluntary Specialist Consultation Evaluation with a list of up to three physicians whose specialty is similar to the treating physician.

The Prospective Procedure Review program is added effective July 1, 2008 to expand pre-notifications to include those for MRI, MRA, CT, PET and Nuclear Medicine (including Nuclear Cardiology) procedures for eligible members.

**6. Consolidated Toll Free Services** (as implemented on November 1, 2002)

The Insurance Company will provide a toll-free service for Empire Plan members consolidating toll-free telephone numbers for multiple benefit insurers associated with the Empire Plan. The Insurance Company will act as liaison with each of the Empire Plan insurers for implementation, operational oversight, and technological coordination for these services and will provide standard monthly call volume and trend reports to the Employer.

**7. Basic Medical Provider Discount Program** (Program effective October 1, 2004)

The Insurance Company shall make its Physician's Shared Savings Program available to the Employee Groups designated by the Department as eligible for the Empire Plan Basic Medical Provider Discount Program (BMPDP). The BMPDP provides access to discounted charges made available to the Insurance Company from health care providers who contract with a third party to provide such discounted charges when the discounted charges are less than the reasonable and customary value of the claim under the Basic Medical Program. The services under the BMPDP provide access to provider discounts only. These providers do not constitute a network.

If a Member is enrolled in the Empire Plan and receives services from an Empire Plan Network Provider on the date services were rendered or the provider was an Empire Plan Network Provider within two years immediately preceding the date services were rendered, the BMPDP and any related fees shall not be applicable. In addition, the Department will not pay any fee for misprocessed or ineligible claims.



The Insurance Company can terminate all or part of the BMPDP at any time for any reason if such termination applies to all of its similar situated customers with a least 90 days written notice to the Department prior to termination of the BMPDP. The Department can terminate the program at any time for any reason by giving the Insurance Company 30 days written notice. The Insurance Company will implement the termination on the 31<sup>st</sup> day after receiving such notice.

**8. Cancer Resource Services** (Program effective October 1, 2004 and effective April 23, 2007 the program is expanded to include bone marrow transplants)

The Insurance Company agrees to provide to the Employee Groups designated by the Employer a network of providers for Oncology Services. The term "Oncology Services" as used in this section includes health care services and supplies rendered for the treatment of a condition that has a primary or suspected diagnosis relating to oncology. Oncology Services rendered by these providers, and the discounted rates for these services, are available to Members based on the contractual relationship between the Insurance Company's affiliate, OptumHealth/United Resource Networks, and these providers.

The Plan will pay for and cover as Plan benefits Oncology Services, which includes supplies and a lifetime travel allowance, in accordance with the collective bargaining agreement in effect for each Employee Group.

**9. Drug Rebates (Program effective January 1,2004)**

The Insurance Company or an intermediary may negotiate with drug manufacturers regarding the payment of Drug Rebates on applicable prescription drug products dispensed to Members under the Plan's medical benefit starting with July 1, 2003.

The Employer will receive [REDACTED] of the Drug Rebates the Insurance Company receives in connection with prescription drug products dispensed to Members under the Plan's medical benefit. The Insurance Company will retain the balance of such Drug Rebates as part of its compensation under this Agreement. If an intermediary is involved, it may retain a portion of the gross amounts received from drug manufacturers in connection with the relevant prescription drug products dispensed to Members under the Plan's medical benefit.

The Employer will only receive Drug Rebates to the extent that Drug Rebates are actually received by the Insurance Company. Thus, for example, if a government action or a major change in pharmaceutical industry practices prevents the Insurance Company from receiving Drug Rebates, the amount the Employer receives may be reduced or eliminated.

The Employer agrees that during the term of this Agreement, neither the Employer nor the Plan will negotiate or arrange or contract in any way for Drug Rebates or the purchase of prescription drug products from any manufacturer under the Plan's medical benefit under this Agreement.

**10. Prosthetic and Orthotic Provider Network (Program effective January 1, 2005)**

The Insurance Company agrees to develop and maintain a network of prosthetic and orthotic providers.

**11. Communication Support Services (Program effective January 1, 2005)**

The Insurance Company agrees to facilitate the payment of invoices related to the Department's Communication Budget as directed by the Department. DCS will provide the Insurance Company a schedule of the annual Communications Budget including amounts to be collected on a quarterly basis by the Insurance Company from other carriers of the Plan. Amounts collected from other carriers will be treated as an offset to the total communications expense and normal expense load will be applied to the net communications expense. Any invoices received after January 31 of the current year which pertain to the previous years Communications Budget, will be applied to the current years budget. The Insurance Company agrees to provide DCS a report of invoices paid in relation to budgeted amounts each quarter for their review.

**12. Workers Compensation Recovery Program (Program effective April 1, 2007)**

The Insurance Company will provide recovery services for overpayments related to Workers Compensation (WC) claims through its recovery vendor. Recovery services on claims for Participating Agencies (PA's), Participating Employers (PE's) and spouses and dependents age 16 years or older of New York State (NY) enrollees will be provided and any overpayments will be collected directly from the WC carriers. Recoveries will not involve contact with members or providers and will not apply to claims for active New York State employees. The Employer will not engage any other entity to provide the services described herein without the Insurance Company's prior approval.

Fees will be charged as a percentage of recoveries deducted from the actual recoveries with the net amount of the recovery credited back to the Employer. An advance notice will be provided if there are any changes in the fees for these recovery services.

The Insurance Company has the authority to develop and use, after Department review and approval, standards and procedures for any recovery, including but not limited to, whether or not to seek recovery, what

steps to take if it is decided to seek recovery, and the circumstances under which a claim may be compromised or settled for less than the full amount of the claim. The use of Insurance Company standards and procedures may not result in full or partial recovery for any particular case. A recovery will not be pursued if it is not permitted by any applicable law, or if recovery would be impractical. Litigation may be initiated to recover payments, but there is no obligation to do so.

**13. Outpatient Surgical Facility Claims Services (Program effective August 1, 2007)**

The Insurance Company will use established reasonable and customary values from a source approved by DCS for outpatient surgical facility claims covered under the Basic Medical Program.

**14. Kidney Resource Services (KRS) Program (Program effective July 1, 2008)**

The Insurance Company will provide a Kidney Resource Services program to eligible Members. The program will include members with End Stage Renal Disease and Stages 5, 4 and 3 kidney disease who opt to participate.

**SAVINGS AND RETURN ON INVESTMENT GUARANTEES**

**1. Disease Management Services**

A savings/return on investment (ROI) guarantee is in place for the initial three years of the program as described in letters dated August 7, 2006 and September 29, 2006 containing the Insurance Company's program proposal to the Employer. The savings/ROI guarantee covers the period of March 1, 2007 until February 28, 2010.

**2. Kidney Resource Services (KRS) Program**

A savings guarantee is in place for the initial four years of the Kidney Resource Services program as described in the January 19, 2007 letter containing the Insurance Company's program proposal to the Employer. The savings guarantee covers the period of July 1, 2008 until June 30, 2012.

**3. Prospective Procedure Review**

A savings guarantee for the first year of the expanded Benefits Management Program for Prospective Procedure Review was negotiated with the external vendor on behalf of the Employer and is the sole responsibility of the external vendor in accordance with the April 9, 2008 letter to the Employer.

**UTILIZATION REVIEW PROCEDURES**

**Review of Provider Claims**

The Insurance Company shall identify Provider claims worthy of additional review. The claims are identified through a review of prior history as well as a combination of procedures being billed. The electronic claims processing system bundling edit addresses all bundled procedures prior to claim processing. If additional review is determined, the claim will be pended for review by the nurse consultant. The nurse consultant will review the claim and may contact the Provider. The nurse consultant may request additional information from the Provider of service to confirm procedure(s) rendered and determine benefit payable by the Plan. Claims are adjudicated notifying the participant or Provider of the outcome.

The Fraud and Litigation area shall review individual Provider practices when questionable practices are identified. The Fraud and Litigation department shall alert claim personnel by electronic warnings/messages assigned to the Provider listing of any special handling required.

**UTILIZATION REVIEW OF SELECTED MEDICAL CLAIMS**

The Insurance Company will also conduct analyses of selected claims as described below.

Physical Medicine – The Insurance Company will develop and maintain guidelines for the review and approval of chiropractic, physical and occupational therapy claims. Providers will be required to complete information reports which document the amount and level of care rendered. These reports, as well as supporting X-rays, will be evaluated by peer clinical professionals using established practical guidelines to determine covered benefits. Written notification of Utilization Review determinations will be provided to the provider of service. If a benefit determination is appealed, a review will be made by a peer clinical professional.

Nursing Care – When benefits for nursing care are requested, the Home Care Advocacy Program (HCAP) will advise the patient's family, doctor and nursing personnel of the information necessary to determine covered benefits. In conducting concurrent review, HCAP may request and review daily nursing notes to determine the amount and level of nursing care that is or will be covered. If a benefit determination is appealed, a review will be made by a peer clinical professional.

That clinical professional will perform reviews of all pertinent and available information and medical record documentation. It will provide HCAP with a formal report of its findings with recommendations which will either support HCAP's decision or offer a different conclusion.

Surgery –Claims for surgical services rendered by a non-participating provider will first be subjected to the test of reasonable and customary against the statistical data contained in the Insurance Company's system. If surgical expenses exceed these guidelines, the reasonable & customary allowance shall be paid subject to applicable deductible and coinsurance with written notification to the enrollee and/or provider. When necessary, the narrative report of surgery will be requested and reviewed by the Insurance Company's medical consultant to ensure the appropriate coding, and to obtain information on extenuating circumstances or complications that may have occurred.

Infertility – When benefits for infertility treatment are requested, the patient/provider is required to notify the Insurance Company. The Insurance Company will review the treatment plan outlined and determine covered benefits, subject to the lifetime benefit maximums.

Durable Medical Equipment – When benefits for durable medical equipment are requested, the patient/provider notifies the Home Care Advocacy Program (HCAP) of any durable medical equipment needs prior to purchase/rental. HCAP staff, which includes medical personnel, review such requests to determine covered benefits.

MRI– The Insurance Company will develop and maintain guidelines for review of MRI procedures. When benefits for elective MRI are requested, the patient/provider notifies the Insurance Company prior to undergoing an MRI procedure. The Insurance Company will evaluate the request to determine covered benefits. The evaluation may include peer-to-peer dialogue with the patient's physician. Written notification of the determination will be provided to the patient and provider.

**USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION**

1. For purposes of this provision, the term “Protected Health Information” (“PHI”) means any information, including demographic information collected from an individual, that relates to the past, present, or future physical or mental health or condition of an individual, to the provision of health care to an individual, or to the past, present, or future payment for the provision of health care to an individual, that identifies the individual, or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual. Within the context of this Agreement, PHI may be received by the Insurance Company from DCS or may be created or received by the Insurance Company on behalf of DCS. All PHI received or created by the Insurance Company as a consequence of its performance under this Agreement is referred to herein collectively as “DCS’ PHI”. For the purpose of this Article, the term “Insurance Company” also refers to the Insurance Company’s subcontractor, if any, for the administration of the Program.
2. The Insurance Company acknowledges that the DCS administers on behalf of New York State several “group health plans” as that term is defined at 45 CFR 160.103, and that each of those health plans consequently is a “covered entity” under HIPAA. These 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, DCS is responsible for the administration of these “covered entities” under HIPAA. The Insurance Company further acknowledges that the DCS has designated NYSHIP as an Organized Health Care Arrangement (OHCA) and that the Insurance Company is a covered entity that participates in the NYSHIP OHCA. As such, the Insurance Company acknowledges that its provision of services may involve disclosure to the Insurance Company of individually identifiable health information from DCS or from other parties on behalf of DCS, and also the Insurance Company’s disclosure to DCS, or to other parties on behalf of DCS, of individually identifiable health information in a manner and for purposes consistent with 45 CFR 164.506(c)(5).
3. The Insurance Company must acknowledge that all transmission and storage of PHI is done under appropriate security measures to prevent any breach in confidentiality. This would include but is not limited to the transmission of PHI within the Insurance Company’s organization, to the DCS, subcontractors, other Plan Business Associates and any organization which may store, back-up or otherwise come in contact with PHI for persons covered under NYSHIP and applies to all media including but not limited to CD, web servers, cartridges, back-up tapes and any other electronic transmissions.



**EXTERNAL ACCESS/NONDISCLOSURE AGREEMENT**

This External Access/Nondisclosure Agreement is entered into by and between the New York State Department of Civil Service (“DCS”) and UnitedHealthcare Insurance Company of New York on behalf of itself and its affiliated companies (“UnitedHealthcare”) with respect to the Parties’ respective disclosure and use of certain information related to the administration of the Empire Plan.

UnitedHealthcare is the insurer of and provides claims administration and other services for the New York State Empire Plan Medical Program (“Plan”). DCS and UnitedHealthcare agree that for purposes related to the administration of the Empire Plan, the DCS may wish to perform examinations, audits or other evaluations of the files, books, and/or records of UnitedHealthcare pertaining to the Empire Plan (“Examinations”), which may include information acquired or maintained by UnitedHealthcare, via access to UnitedHealthcare’s Information Systems. This Agreement grants DCS access to such systems, and establishes the terms and conditions of such access. This Agreement supersedes and replaces any existing agreements between the parties relating to DCS’ access to UnitedHealthcare’s Information Systems and may be in addition to other agreements between the parties regarding Confidential Information.

DCS and UnitedHealthcare recognize they have a legal responsibility to protect medical and other individually identifiable Confidential Information under current and future confidentiality laws. Specific laws that regulate use of medical and other individually identifiable Confidential Information include, but are not limited to, the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), Pub. Law, 104-191, Title II, Subtitle F (including those sections of the law codified at 42 USC Sec. 1171 et seq.), and its implementing regulations.

**Section 1 Definitions.**

- **UnitedHealthcare’s Information Systems (“United IS”)** includes information systems owned and/or operated by UnitedHealthcare including its parent company, subsidiaries and affiliates.
- **Proprietary Information** includes UnitedHealthcare’s computer programs and code, business plans, financial records, documents, statistical information, and other information which may be commercially valuable, confidential, proprietary or trade secret in its nature.
- **Confidential Medical Information** includes materials that may contain medical or other individually identifiable information.
- **Confidential Information** shall collectively refer to Proprietary Information and Confidential Medical Information. However, Confidential Information shall not include information: (i) generally available to the public or generally known in the insurance industry or employee benefit consulting community prior to or during the time of an Examination through authorized disclosure; (ii) obtained from a third party who is under no obligation to UnitedHealthcare not to disclose such information; or (iii) required to be disclosed by subpoena, or other legal process.

**Section 2** *Disclosure of Confidential Information.* UnitedHealthcare and its agents, subsidiaries and affiliates shall disclose Confidential Information to the DCS in connection with Examinations, provided that such Confidential Information, including all copies thereof, shall be used by the DCS only as permitted by this Agreement.

**Section 3** *Use of Confidential Information.* The DCS shall: (a) not use, exploit, duplicate, recreate, copy, modify, decompile, disassemble, reverse engineer, translate, create derivative works, or otherwise disclose in any way Confidential Information to another person, nor permit any other person to do so, except for purposes directly related to an Examination; (b) limit use of Confidential Information only to authorized persons who have a need to know for purposes of an Examination; and (c) may release Confidential Information in response to a subpoena or other legal process to disclose Confidential Information, after giving UnitedHealthcare reasonable prior notice of such disclosure. DCS shall protect such Confidential Information with at least the same degree of care DCS use to protect their own confidential and proprietary information.

At the conclusion of an Examination, the DCS either shall relinquish to UnitedHealthcare, or destroy (with such destruction to be certified to UnitedHealthcare), all Confidential Information. If during the course of an Examination it is discovered that this Agreement has been breached by the DCS, then all Confidential Information shall be relinquished to UnitedHealthcare upon demand. However, DCS and authorized persons may retain and use such Confidential Information for use in performing any on-going audit or review function.

The requirement to treat all Confidential Medical Information as Confidential Information shall survive the termination of this Agreement. The requirement to treat all Proprietary Information as Confidential Information shall remain in full force and effect so long as any Proprietary Information remains commercially valuable, confidential, proprietary and/or trade secret, but in no event less than a period of three (3) years from the date of the Examination.

**Section 4** *Access to United IS.* Access by DCS shall be granted by UnitedHealthcare consistent with laws (including HIPAA) and the Group Policy when requested for the individuals identified as provided in Section 7 of this Exhibit H on the system security request form used by UnitedHealthcare for that purpose. UnitedHealthcare shall identify the system(s) required by DCS. Access will be granted by UnitedHealthcare in a reasonably prompt and timely manner.

**Section 5** *Method of Access.* DCS shall have access to United IS by a Virtual Private Network (VPN). UnitedHealthcare shall be responsible for providing and maintaining the VPN termination point at the UnitedHealthcare data center. DCS shall be responsible for providing and maintaining the VPN termination point at DCS' location. UnitedHealthcare and DCS shall be responsible for any relationships that may be necessary in maintaining DCS' data connection through the VPN as provided in Section 6 of this Exhibit H.

**Section 6** *Hardware, Software and Data Connections Required for Access.* DCS shall be solely responsible for supplying the internal (to DCS) hardware and software that is required for DCS to obtain access to United IS and for any relationships with third parties that may be necessary in connection with that hardware and software. UnitedHealthcare shall be solely responsible for supplying the data connections and for any relationships with third parties that may be necessary in connection with that data connection. UnitedHealthcare shall provide DCS information regarding the required hardware and software.

**Section 7** *System Users.* DCS shall identify to UnitedHealthcare those persons who require access to United IS for the purpose of conducting Examinations ("System Users"). DCS shall provide to UnitedHealthcare the information required by UnitedHealthcare regarding each System User, including, but not limited to, the United IS each System User will access and the method of each System User's access.

DCS shall promptly notify UnitedHealthcare of any System Users who cease to require access to United IS; such notifications shall be provided promptly whenever a System User no longer requires access. A prospective System User shall be subject to approval by UnitedHealthcare prior to receiving access. UnitedHealthcare may, at its sole discretion, terminate any System User's access to United IS.

DCS shall ensure that each System User complies with the terms of this Agreement and that no System User introduces a computer virus into United IS or takes any other action that adversely affects or damages United IS. DCS is responsible for a System User's non-compliance with the terms of this Agreement.

**Section 8** *Limitations on Access to United IS.* DCS shall not use its access to United IS for any purpose not consistent with administration of the Empire Plan or any agreement in effect between UnitedHealthcare and New York State for the administration of the Empire Plan.

**Section 9** *No Software License Granted and Ownership.* The access to United IS granted to DCS under this Agreement is limited to granting DCS access to information contained in United IS, and does not and shall not be construed as granting DCS a license for the use of the software programs contained in the United IS. Any license to the software programs contained in United IS may be subject to a separate license agreement between the parties. Under this Agreement, DCS shall not attempt to reverse engineer or otherwise obtain copies of the software programs contained in United IS or the source code of the software programs contained in United IS.

UnitedHealthcare owns and/or has rights to United IS. This Agreement does not transfer title to or ownership to rights to United IS or to rights in patents, copyrights, trademarks and trade secrets encompassed in United IS to DCS.

**Section 10** *Security Measures.* DCS shall use reasonable physical and software-based measures, commonly used in the electronic data interchange field, to protect data contained in United IS from unauthorized access. DCS shall implement and comply with and shall not attempt to circumvent or bypass security procedures for the benefit of United IS that are required by UnitedHealthcare.

**Section 11** *Medical Information.* The information in United IS to which DCS has access pursuant to this Agreement may contain medical and other individually identifiable Confidential Information. DCS shall require any and all System Users to comply with all applicable State and federal laws regarding confidentiality of medical and other individually identifiable Confidential Information. DCS agrees:

1. to only access medical and other individually identifiable Confidential Information in UnitedHealthcare's possession if: a) it is needed for Examinations or to perform other appropriate Empire Plan administrative functions consistent with the insurance policy issued by Metropolitan Life Insurance Company and later assigned to UnitedHealthcare and any other Agreements between New York State and UnitedHealthcare for administration of the Empire Plan pursuant to its fiduciary responsibility or other applicable laws; or, b) there is a signed authorization from the covered person allowing the release of such Confidential Information.
2. to have a reasonable procedure in place to ensure the secure handling of medical and other individually identifiable Confidential Information (i.e., the person receiving the Confidential Information shall not be the same person evaluating a covered person's work performance), and shall not copy such Confidential Information unless express, prior written approval of UnitedHealthcare to do so has been obtained.
3. to limit use of medical and other individually identifiable Confidential Information only to System Users for purposes of the Examination.
4. that medical and other individually identifiable Confidential Information shall not be re-disclosed to any unauthorized entity or person unless allowed by law and shall, if required by subpoena or other legal process to disclose any

medical or other individually identifiable Confidential Information, give UnitedHealthcare reasonable prior notice of such disclosure.

**Section 12 General.**

- (1) This Agreement is the entire understanding between the parties as to the subject matter hereof.
- (2) The DCS' permissible access to United IS and its permissible use of Confidential Information contained therein shall be deemed to include permissible access and permissible use by DCS' contractors and agents as well, which shall include any employees of contractors of DCS assigned specifically to perform examinations, audits or other evaluations of the administration of the Empire Plan provided that: i) such persons are designated to UnitedHealthcare prior to the examinations, audits or other evaluations of the administration ii) DCS ensures that such persons are aware of and will abide by the terms and conditions of this Agreement and iii) such persons will be bound and the provisions applied as if such persons were parties to this Agreement.
- (3) Neither this Agreement nor the DCS' rights or obligation hereunder may be assigned without UnitedHealthcare's prior written approval.
- (4) Both parties agree to negotiate in good faith should either party indicate formally in writing to the other party that a change in the agreements reached in this Amendment Exhibit H is requested. The parties will then have 60 days to negotiate a compromise.

**APPENDIX A**

**STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS**

November, 2010

**PLEASE RETAIN THIS DOCUMENT  
FOR FUTURE REFERENCE.**

Page 29 of 54

Ninth Amendment  
State of New York  
Contract Nos. 30500-G; 30501-G and 30502-G

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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, licensor, licensee, lessor, lessee or any other party):

1. **EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.
2. **NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.
3. **COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).
4. **WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
5. **NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.
6. **WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.
7. **NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

**8. INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

**9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall

diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, 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 New York State's Central Accounting System by the Director of Accounting Operations, 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, 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:



(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, 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; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor's Office 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  
30 South Pearl St -- 7<sup>th</sup> Floor  
Albany, New York 12245  
Telephone: 518-292-5220  
Fax: 518-292-5884  
<http://www.empire.state.ny.us>

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  
30 South Pearl St -- 2nd Floor  
Albany, New York 12245  
Telephone: 518-292-5250  
Fax: 518-292-5803  
<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. **RECIPROCITY AND SANCTIONS PROVISIONS.** Bidders are hereby notified that if their principal place of

business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. **COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. **COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.** If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. **PROCUREMENT LOBBYING.** To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. **CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.**

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

## APPENDIX B

Where and when applicable, references in this Appendix B to “Offeror” or “Contractor” shall mean the “Insurance Company” and to the “Department” shall mean the “Employer”.

### CONTRACTOR COMPLIANCE WITH EXECUTIVE ORDER NO. 127

The Contractor certifies that all information that it has provided or will provide to the Department with respect to Executive Order No. 127 is complete, true, and accurate.

The Contractor shall demonstrate its compliance with Executive Order No. 127 throughout the term of the Agreement by disclosing to the Department information on every person or organization retained, employed, or designated by or on behalf of the Contractor to attempt to influence the procurement process throughout the term of the Agreement. An “*attempt to influence the procurement process*” means any attempt to influence any determination of a member, officer or employee of the Department or any other New York State Executive agency with respect to the solicitation, evaluation or award of a procurement contract, or the preparation of specifications or request for submission of proposals for a procurement contract. The Contractor also shall disclose whether such persons or organizations have a financial interest in the procurement. “*Financial interest in the procurement*” means that a person or organization (i) owns or exercises direct or indirect control over, or owns a financial interest of more than one percent in, a contractor or other entity that stands to gain or benefit financially from a procurement contract; (ii) receives, expects or attempts to receive compensation, fees, remuneration or other financial gain or benefit from a contractor or other individual or entity that stands to benefit financially from a procurement contract; (iii) is being compensated by, or is a member of, an entity or organization which is receiving, expecting, or attempting to receive compensation, fees, remuneration or other financial gain from a contractor or other individual or entity that stands to benefit financially from a procurement contract; (iv) receives, expects or attempts to receive any other financial gain or benefit as a result from the procurement contract; or (v) is a relative of a person with a financial interest in the procurement as set forth in clauses (i) through (iv) of this paragraph. For purposes of this paragraph, “*relative*” means spouse, child, stepchild, stepparent, or any person who is a direct descendant of the grandparents of an individual listed in clauses (i) through (iv) of this paragraph, or of the individual’s spouse. The Contractor is required to inform the Department of any and all persons or organizations subsequently retained, employed, or designated by or on behalf of the Contractor before the Department or any other New York State Executive agency is contacted by such persons or organizations. The Contractor is required to submit this information in the manner specified by the Department for that purpose, by use of the form set forth on Page 2 of this Appendix B.

In addition to the bases for termination set forth in the Agreement, the Department reserves the right to terminate the Agreement in the event it is found that the Contractor’s certification of its compliance with Executive Order No. 127 was intentionally false or intentionally incomplete. Upon such finding, the Department may exercise its right to terminate the Agreement by providing written notification to the Contractor.



State of New York  
 Department of Civil Service  
 The State Campus  
 Albany, NY 12239

**ADMINISTRATIVE SERVICES DIVISION**

**Procurement Disclosure – Offeror/Contractor Disclosure of Contacts**

ADM-524.1 (1/04L)

**INSTRUCTIONS:**

**OFFERORS** are required to demonstrate compliance with New York State Executive Order No. 127, “Providing for Additional State Procurement Disclosure” by completing this form at the time the Offeror’s Proposal is submitted to the Department, and to provide such additional information throughout the procurement until the date of the final contract award, as necessary to ensure compliance with the Executive Order. Failure to complete and submit this form may result in a determination of non-responsiveness and disqualification of the Offeror’s proposal. This information will be maintained in the Procurement Record and will be available for inspection as a public record.

**CONTRACTORS** are required to use this form to update this information throughout the term of any contract awarded to the Contractor by the Department. This information will be maintained in the record for the contract(s) for which the Contractor provides services and will be available for inspection as a public record.

Date of Submission: \_\_\_\_\_

Name of Offeror/Contractor: \_\_\_\_\_

Address: \_\_\_\_\_

Name and Title of Person Submitting this Form: \_\_\_\_\_

Please specify whether this is an initial filing in accordance with Section II, paragraph 1 of Executive Order No. 127 or an updated filing in accordance with Section II, paragraph 2 of Executive Order No. 127. (Please check):

Initial filing                       Updated filing

The following person or organization was retained, employed, or designated by or on behalf of the Offeror/Contractor to attempt to influence the procurement process:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Place of Principal Employment: \_\_\_\_\_

Occupation: \_\_\_\_\_

Does the above named person or organization have a financial interest in the procurement? (Please check):

no     yes

**PLEASE USE ADDITIONAL SHEETS AS NECESSARY AND ATTACH THEM TO THIS PAGE**

**PERSONAL PRIVACY PROTECTION NOTIFICATION** - The information you provide on this form is requested for the principal purpose ensuring compliance with Executive Order No. 127. Failure to provide the information may interfere with the Department’s ability to administer the procurement to which the request for information relates. The information will be maintained by the Procurement Manager for the subject procurement, Department of Civil Service, The State Campus, Albany, NY 12239. The information will be used in accordance with Public Officers Law section 96(1), also known as the Personal Privacy Protection Law. For information about the Personal Privacy Protection Law, call (518) 457-9375. For information about this form, call the Procurement Manager.

**APPENDIX C**  
**THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT**

**THIS AGREEMENT** (the "Agreement") by and between the NYS Department of Civil Service ("Department"), with principal offices in Albany, NY 12239, and

UnitedHealthcare Insurance Company of New York
--

with principal offices at

505 Boices Lane
Kingston, NY 12401

(hereinafter "Third Party"), is entered into as of the date last written below ("the Effective Date").

This Agreement consists of this signature page and the following attachments incorporated by reference:

- Attachment 1: Third Party Connection and Data Exchange Agreement Terms and Conditions
- Attachment 2: Third Party Connection and Data Exchange Request Requirements Document
- Attachment 3: Third Party Acceptable Use Policy and Agreement
- Attachment 4: Department Equipment Loan Agreement (Applicable:  Yes  No )

This Agreement may only be modified by a written document executed by the parties hereto. Any disputes arising out of or in connection with this Agreement shall be governed by New York State law without regard to choice of law provisions.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed. Each party warrants and represents that its respective signatories whose signatures appear below have been and are on the date of signature duly authorized to execute this Agreement.

*Third Party Name:*  
UnitedHealthcare Insurance Company of New York

*NYS Department of Civil Service (Department)*

Authorized Signature  
Laurie A. Torres

Authorized Signature

Name (*Print*)  
Laurie A. Torres

Name (*Print*)

Date  
7/7/2010

Date

# THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

## ATTACHMENT 1 – SECURITY REQUIREMENTS

### 1. Right to Use Connection

Third Party may only use the connection and the information obtained from the Department for business purposes as outlined by the Third Party Connection and Data Exchange Request Requirements Document (Attachment 2).

### 2. Data Exchange

2.1 Third Party may only use the data obtained for purposes outlined by the Third Party Connection and Data Exchange Request Requirements Document (Attachment 2) and the contract or Memoranda of Understanding, if any, that exists between the Department and Third Party for the provision of goods or services or governing conduct between the Department and Third Party with respect to the access to and use of Department data.

2.2 Data exchange may be conducted only by methods and/or services outlined by the Third Party Connection and Data Exchange Request Requirements Document (Attachment 2). Third Party should expect that access to information and services may be limited, as determined or required by the Department.

### 3. Network Security

3.1 Third Party will allow only its own employees approved in advance by the Department (“Third Party Users”) to access the Network Connection or any Department-owned equipment. Third Party shall be solely responsible for ensuring that Third Party Users are not security risks, and upon the Department’s request, Third Party will provide the Department with any information reasonably necessary for the Department to evaluate security issues relating to any Third Party User.

3.2 Third Party will promptly notify the Department whenever any Third Party User leaves Third Party’s employ or no longer requires access to the connection or Department-owned Equipment.

3.3 Each Party will be solely responsible for the selection, implementation, and maintenance of security procedures and policies that are sufficient to ensure that (a) such party’s use of the connection (and Third Party’s use of Department-owned Equipment) is secure and is used only for authorized purposes, and (b) such Party’s business records and data are protected against improper access, use, loss alteration or destruction.

- 3.4 The preferred connectivity method is via the Internet to a Department-approved or Department-provided Virtual Private Network (VPN) device. If the device is Department-provided, the Department will loan the Third Party, in accordance with the Department Equipment Loan Agreement, the required client software for establishing VPN connections with the Department. Normal Department perimeter security measures will control access to the internal network.
- 3.5 Extranet – Designated routers are used in combination with firewall rules to allow access to be managed. A second authentication may be required.
- 3.6 Remote Access - Using the Department-provided remote access software, Third Party will connect via an Internet browser. The account may be disabled until usage is required and controls are placed and managed by the Department. Third Party will be required to follow procedures to enable the account for each use.
- 3.7 Third Party Connections will be audited. All remote access user accounts for Third Parties will be given an expiration time. Renewals must be requested by Third Party and approved by the Department Sponsor. Obsolete Third Party connections will be terminated.
- 3.8 Software versions on all Third Party computers that connect to the Department network must be versions that are currently supported by the software manufacturer, and all available security updates and hot fixes for that software must be applied in a timely fashion. Software and firmware for all Third Party networking equipment that is part of the connection to the Department network must be kept up to date, especially with patches that fix security vulnerabilities.
- 3.9 Anti-virus software and firewalls must be installed and enabled at all times on Department-owned computers and on Third Party computers that connect to the Department network. Additionally, virus definition files must be kept up to date.
- 3.10 In no case may a Third Party Connection to the Department be used as an Internet Connection for Third Party or for a Third Party User.

#### **4. Notifications**

- 4.1 Third Party shall notify the Department in writing promptly of any change in its Users for the work performed over the Network Connection or whenever Third Party believes a change in the connection and/or functional requirements of the connection is necessary.

4.2 Any notices required by this Agreement shall be given in hand, sent by first class mail, or via facsimile to the applicable address set forth below.

**Third Party Name:**  
UnitedHealthcare Insurance Company of New York

**Department:**  
NYS Department of Civil Service

**Address:**  
505 Boices Lane  
Kingston, NY 12401

**Address:**  
AE Smith State Office Building  
Albany, NY 12239

**Attention:**  
Laurie A. Torres

**Attention:**  
Mindy Beyer

## 5. Citizen Notifications

If Third Party maintains "identifying personal information" on behalf of the Department and such information is compromised, Third Party shall notify the Department immediately that the information has been compromised, the circumstances under which the information was compromised, and the measures undertaken by Third Party to address those circumstances and to otherwise mitigate the effects of the compromise. If encrypted data is compromised along with the corresponding encryption key and encryption software, the data shall be considered unencrypted and the information will be considered compromised through unauthorized access. If the Department requests Third Party to do so, Third Party shall notify the persons whose identifying information was compromised. Such notification shall be communicated via postal service or email, as directed by the Department, and shall otherwise be executed in accordance with the Department's direction. Notification shall be delayed if a law enforcement agency determines that such notification may impede a criminal investigation. For the purpose of this section, "identifying personal information" shall be any information concerning an individual which, because of name, number, symbol, mark or other identifier in combination with any of the following, is unencrypted: (1) Social Security Number; or (2) driver's license number; or (3) financial account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual's financial account; or (4) password which would permit access to the individual's account.

## 6. Payment of Costs

Each Party will be responsible for all costs incurred by that Party under this Agreement, including, without limitation, costs for phone charges, telecommunications equipment and personnel for maintaining the connection.



## **7. Confidentiality**

- 7.1 Information exchanged for the business purposes outlined in Attachment 2 will be held confidential by the Parties to the maximum extent permitted by law. Each Party may internally use the information received from the other Party hereunder in connection with and as specifically necessary to accomplish the Business Purpose set forth in Attachment 2 and for no other purposes. Each Party may otherwise share such information with other third parties (e.g. consultants, subcontractors, control agencies) as required or permitted by law in order to effect the business purposes outlined in Attachment 2 and for no other purposes, provided that such third parties agree to the confidentiality restrictions set forth herein and as may be required otherwise by State and federal law.
- 7.2 Third Party must implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the sensitive information that it creates, receives, maintains, or transmits on behalf of the Department.
- 7.3 Unencrypted Department information must not be transmitted over email.
- 7.4 Third Party must ensure that any agent, including a subcontractor, to whom it provides such information, agrees to implement reasonable and appropriate safeguards to protect it and report to the Department Help Desk any security incident of which it becomes aware.

## **8. Third Party Users**

- 8.1 Third Party must require that each Third Party User executes a Third Party Acceptable Use Policy and Agreement (Attachment 3). Third Party must ensure that the Department is notified by fax or mail when the user base changes, following the specifications in the Third Party Connection & Data Exchange Agreement.
- 8.2 All aspects of Third Party connections within the Department control may be monitored by the appropriate Department support group and/or the Department Information Security Officer. Any unauthorized use or change to devices will be investigated immediately.
- 8.3 All Third Party Connections will be reviewed on a regular basis and information regarding specific Third Party connection will be updated as necessary. Obsolete Third Party connections will be terminated.

## **9. Department-owned Equipment**

- 9.1 The Department may, in the Department's sole discretion, loan to Third Party certain equipment and/or software for use on Third Party premises (the Department-owned

Equipment) under the terms of the Department Equipment Loan Agreement set forth in Attachment 4. Department-owned equipment will only be configured for TCP/IP, and will be used solely by Third Party on Third Party's premises or other locations authorized by the Department for the purposes set forth in this Agreement. The Department is responsible for ensuring that it has the right under applicable software licenses to permit third party use.

- 9.2 Third Party may modify the configuration of the Department-owned equipment only after notification and approval in writing by authorized Department personnel.
- 9.3 Third Party will not change or delete any passwords set on Department-owned equipment without prior approval by authorized Department personnel. Promptly upon any such change, Third Party shall provide the Department with such changed password.

## **10. Term, Termination and Survival**

- 10.1 This Agreement will remain in effect until terminated by either Party, but in no event prior to the termination or expiration of any contract or agreement between the Parties for the purchase of goods or services that provides the business purpose for the exchange of data between the Parties, unless both Parties mutually agree to so terminate this Agreement.
- 10.2 Upon termination, Third Party shall return all tangible Department data to the Department within a timeframe specified by the Department for that purpose, and further shall certify in writing to the Department that all other Department data in whatever form has been destroyed. Additionally, any Department-owned equipment and/or software shall be promptly returned to the Department at Third Party's expense.
- 10.3 Notwithstanding the above, the Parties' obligations to safeguard the confidentiality of the data subject to this Agreement shall survive the termination of this Agreement, and shall bind the Parties' employees, subcontractors, agents, heirs, successors and assigns.

## **11. Severability**

If for any reason a court of competent jurisdiction finds any provision or portion of this Agreement to be unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible so as to affect the intent of the Parties, and the remainder of this Agreement will continue in full force and effect.

## **12. Waiver**

The failure of any Party to enforce any of the provisions of this Agreement will not be construed to be a waiver of the right of such Party thereafter to enforce such provisions.

**13. Assignment**

Third Party may not assign this Agreement, in whole or in part, without the prior written consent from the Department. Any attempt to assign this Agreement, without such consent, will be null and of no effect. Subject to the foregoing, this Agreement is for the benefit of and will be binding upon the parties' respective successors and permitted assigns.

**14. Force Majeure**

Neither Party will be liable for any failure to perform its obligations if such failure results from any act of God or other cause beyond such Party's reasonable control (including, without limitation, any mechanical, electronic or communications failure) which prevents such party from transmitting or receiving any data.

**15. Partial Invalidity**

If this Agreement is entered into as a consequence of Third Party's provision of goods or services to the Department pursuant to a contract or other written agreement, that Agreement supersedes this Agreement to the extent the agreements' provisions may be inconsistent.

*July 2005*

# THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

## ATTACHMENT 2 – REQUEST REQUIREMENTS

In accordance with the Department *Third Party Connection and Data Exchange Policy*, all requests for Third Party connections and data exchanges must be accompanied by this completed requirements document. This document should be completed by the Department person or group requesting the Third Party connection and/or data exchange. The Department Sponsor must be the Director of the Division whose business requires the Third Party connection and/or data exchange. Department Divisions are encouraged to work with their IRM Liaison to complete the information in this document.

### ***Part 1 – Business Justification***

#### **A. Department Sponsor (Division Director)**

Name:

Robert DuBois

Office Location:

AE Smith State Office Building, Albany, NY  
12239

Email Address:

Robert.DuBois@cs.state.ny.us

Division:

Employee Benefits

Phone Number:

(518) 473-1977

#### ***Back-up Point of Contact: (Data Custodian)***

Name:

Barbara Vaughn

Office Location:

AE Smith State Office Building, Albany, NY  
12239

Email Address:

Barbara.Vaughn@cs.state.ny.us

Division:

Employee Benefits

Phone Number:

(518) 476-6735

#### **B. Business Reason for Connection (To be completed by Sponsor)**

State the purpose of establishing the connection and the purpose of the data transmission. Specify the business needs of the proposed connection.

UnitedHealthcare Insurance Company of New York (UHCNY) administers the Empire Plan's Medical/Surgical Program benefits. The Department sends enrollment information to UHCNY on a daily basis in order for UHCNY to update its records to administer benefits for plan participants. Authorized UHCNY staff have inquiry only access to NYBEAS in order to verify Empire Plan

enrollment information, or reconcile discrepancies in enrollment between the Department and UHCNY.

UHCNY will send claims data periodically via FTP or other mutually agreed-upon connection to the Department and the Department's EBD Audit Unit will interactively access UHCNY claims data.

**C. Specify the details of the work to be accomplished via the connection. What applications will be used? What information will be used? What transactions will be accomplished?**

Enrollment files from NYBEAS will be transmitted to UHCNY via an FTP or other mutually agreed-upon connection. Limited UHCNY staff has inquiry access to NYBEAS to verify Empire Plan enrollment. The enrollment information is used by UHCNY to determine eligibility for benefits under the NYS Empire Plan's Medical/Surgical Program and to administer the Program on behalf of the Department.

Claims files from UHCNY will be transmitted to the Department via an FTP or other mutually agreed-upon connection. The EBD Audit Unit will interactively access claims data at UHCNY via a secure connection.

**D. Specify the Third Party Controls to be implemented for Safeguarding Department Data:**

Access Controls:

Limited Access, network log-on, userid password by team manager, trainers, quality assurance and front-line supervisors. Access will not be granted to the general population.

Audit Controls:

User can not access NYBEAS without a userid and password issued by the Department.

Working procedures or practices for handling printed material and verbal exchanges:

Printed materials are shredded and disposed of securely after use. Transactions, including verbal transactions, are conducted in a secure environment.

Method of Disposal of media and paper:

Secure receptacles are used to dispose of sensitive materials.

User Account Management, including review of accounts:

The manager of the eligibility unit monitors access for employees and notifies DCS of changes.

Physical Security:

The unit is located in a secure physical environment. Access to this environment requires the use of a personal electronic identification badge.

Information Security Controls:

All FTP or other mutually agreed-upon connection files will be encrypted using PGP

“Pretty Good Privacy” or other mutually agreed-upon method. All interactive connections will be encrypted.

**E. Estimated number of hours of use each week?**

1 – 20                       21 – 40                       More than 40 hours per week

**F. Anticipated normal hours of use?**

M – F, 8:00 – 5:00 pm Eastern Time                       Other (specify):

**G. What is the requested installation date? (Minimum lead-time is 30 days)**

N/A. We will not be installing any software on vendor’s system. Vendor accesses the NYBEAS system via URL.

**H. Approximately how long will the connection be needed?**

Up to 6 months                       6 – 12 months                       More than 12 months

Specific time period:

**Note: If a connection is needed for more than a year, the Connection Agreement must be renewed annually.**

**I. Third Party Information**

Name of Third Party:  
**UnitedHealthcare Insurance Company of New York**

Main Phone Number:  
**845-382-7500**

Main Office Address:  
**505 Boices Lane, Kingston, NY 12401**  
*Management Contact*

Name:  
**Laurie A. Torres**  
Address:  
**505 Boices Lane, Kingston NY 12401**  
Phone Number:  
**845-382-7833**  
Manager's Phone:  
**845-382-7503**

Department:  
**Eligibility**  
Email Address:  
**Laurie\_a\_torres@uhc.com**  
Manager's Name:  
**Donna Pooley**

*Backup Contact*  
Name:  
**Virginia Davis**  
Address:  
**505 Boices Lane, Kingston, NY 12401**  
Phone Number:  
**845-382-7749**  
Manager's Phone:  
**845-382-7833**

Department:  
**Eligibility**  
Email Address:  
**Virginia\_davis@uhc.com**  
Manager's Name:  
**Laurie Torres**

*Technical Contact*

Name:  
**United Support Center**  
Address:

Department:  
Email Address:

Phone Number:  
**888-848-3375 (888UHTDESK)**  
Manager's Name:

Manager's Phone:

Technical Support Hours:  
**24 Hour Support Desk**  
Escalation List:

Domain name(s):

Host name(s):

**User Names and Contact Information.** (List all employees of the Third Party who will use this access.)

**User 1 (name, phone, email):**

Virginia Davis, 845-382-7749, [virginia\\_davis@uhc.com](mailto:virginia_davis@uhc.com)

**User 2 (name, phone, email):**

Jayne Rion, 845-382-7836, [jayne.rion@optumhealth.com](mailto:jayne.rion@optumhealth.com)

**User 3 (name, phone, email):**

Patricia Schwartz, 845-382-7748, [patricia\\_e\\_schwartz@uhc.com](mailto:patricia_e_schwartz@uhc.com)

**User 4 (name, phone, email):**

Denice Allfrey, 845-382-7718, [denice\\_m\\_allfrey@uhc.com](mailto:denice_m_allfrey@uhc.com)

**User 5 (name, phone, email):**

Tina Winters, 845-382-7526, [tina\\_m\\_winters@uhc.com](mailto:tina_m_winters@uhc.com)

**User 6 (name, phone, email):**

Mary Jean Orr, 845-382-7896, [mary\\_j\\_orr@uhc.com](mailto:mary_j_orr@uhc.com)

**User 7 (name, phone, email):**

Gregory Vandine, 845-382-7562, [gregory\\_vandine@uhc.com](mailto:gregory_vandine@uhc.com)

**User 8 (name, phone, email):**

Alice Lesperance, 845-382-7849, [alice\\_p\\_lesperance@uhc.com](mailto:alice_p_lesperance@uhc.com)

**User 9 (name, phone, email):**

Frederick Krusher, 845-382-7692, [frederick\\_j\\_krusher@uhc.com](mailto:frederick_j_krusher@uhc.com)

**User 10 (name, phone, email):**

Linda O'Keefe, 845-382-6609, [linda\\_m\\_okeefe@uhc.com](mailto:linda_m_okeefe@uhc.com)

**User 11 (name, phone, email):**

Kathleen Petro, 845-382-7830, [kathleen\\_e\\_petro@uhc.com](mailto:kathleen_e_petro@uhc.com)

**User 12 (name, phone, email):**

Laurie Torres, 845-382-7833, [laurie\\_a\\_torres@uhc.com](mailto:laurie_a_torres@uhc.com)

**User 13 (name, phone, email):**

Sharon Kellerhouse, 845-382-7704, [Sharon\\_a\\_kellerhouse@uhc.com](mailto:Sharon_a_kellerhouse@uhc.com)



# THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

## ATTACHMENT 3 – THIRD PARTY ACCEPTABLE USE POLICY AND AGREEMENT

This Policy and Agreement applies to all forms of computer and networking use, including local access at the Department of Civil Service (Department) premises, remote access via public or private networks, access using Department equipment, access using individual or group accounts, and access via other methods.

A signed paper copy of this form must be submitted by any individual (1) for whom authorization of a new user account is requested, (2) who will use a shared third party account, and/or (3) who is requesting reauthorization of an existing use. Modifications to the terms and conditions of this agreement will not be accepted by Department management.

Indicate here if this is a notification that the User named below no longer requires access:

User's Name (*print*):

Organization:

**UnitedHealthcare Insurance Company of New York**

Telephone                      Area code                      Number                      Extension  
Number:  
Office Address:

*The undersigned acknowledges that he or she has read, understands, and agrees to comply with this Third Party Acceptable Use Policy and Agreement governing the use of Department computing resources.*

User Signature:

Date:

**You must sign this signature page and send it to the Department. Retain a copy of the signature page and the attached Policy for your records. This form must be delivered either by fax or mail to:**

**MAIL: NYS Department of Civil Service, Albany, NY 12239  
Attention: Help Desk**

**FAX: 518-485-5588**

# THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

## ATTACHMENT 3 – THIRD PARTY ACCEPTABLE USE POLICY AND AGREEMENT

### I. *Protection of Department Information*

All records and information maintained in the Department systems accessed by the User are confidential and shall be used by the User solely for the purpose of carrying out the User's official duties. Users may not use any such records and information for any other purpose. No such records or information may otherwise be used or released to any person by the User or by the User's employer or agent, except as may be required by applicable State or federal law or by a court of competent jurisdiction. All accounts and connections will be regularly reviewed.

### II. *Department Log-on Banner*

All users will follow the guidelines of the Department Log-on Banner as stated below.

NOTICE \* The contents of this banner have been recommended to all State agencies by the Office for Technology in the NYS Preferred Standards and Procedures for Information Security. \* This electronic system, which includes hardware, software and network components and all data contained therein (the "system"), is the property of the New York State Department of Civil Service (Department). \* Unauthorized use or attempted unauthorized use of this system is not permitted and may constitute a federal or state crime. Such use may subject you to appropriate disciplinary and/or criminal action. Use of this system is only permitted to the extent authorized by the Department. \* Use is limited to conducting official business of the Department. Under the Electronic Communications Privacy Act of 1986 (18 U.S.C. 2510, et seq.), notice is hereby given that there are NO facilities provided by this system for sending or receiving private confidential electronic communication. Any use, whether authorized or not, may be monitored, intercepted, recorded, read, copied, accessed or captured in any manner, and used or disclosed in any manner, by authorized Department personnel without additional prior notice to users. In this regard, users have no legitimate expectation of privacy during any use of this system or in any data on this system. \* Use, whether authorized or unauthorized, constitutes expressed consent for the Department to monitor, intercept, record, read, copy, access or capture and use or disclose such information. \* Department policy regarding this matter can be reviewed on the Department internal website. Copies can also be obtained from the Office of Human Resources Management. Such policies are subject to revision. This notice is consistent with the Acceptable Use Policy issued to Department employees regarding acceptable use, June 15, 2005. I have read and understand this notification and department policy.

### III. *Passwords*

The User is not permitted to share his/her password with anyone. Passwords must never be written down. The User must not use the same password for multiple applications. The User must use passwords that are not easily guessed and must not use their email address as their password.

#### **IV. *Shared Accounts***

All use of shared accounts must be authorized by the Department. Users of shared accounts must be identified to the Department via the completion and signing of this policy/agreement. Third Parties are responsible for notification to the Department when the user base changes. Passwords for shared accounts must not be provided to individuals who have not been identified by Third Party to the Department and who have not completed and signed this policy/agreement.

#### **V. *Virus Protection***

Anti-virus software must be installed and enabled at all times on Department-owned computers and on third party computers used to conduct Department business. Virus definition files must be kept up to date. The Department Information Resource Management (IRM) provides anti-virus software and maintains the configuration of that software for all Department-owned computers.

#### **VI. *Acceptable Use***

Department computers, computing systems and their associated communication systems are provided to support the official business of the Department. All uses inconsistent with the Department's business activities and administrative objectives are considered to be inappropriate use.

Examples of unacceptable behavior include, but are not limited to the following.

- Any illegal activities that could result in legal actions against and/or financial damage to the Department.
- Computer usage that reasonably harasses or offends other employees, users, or outsiders, or results in public embarrassment to the Department.
- Computer usage that is not specifically approved and which consumes significant amounts of computer resources not commensurate with its benefit to the Department's mission or which interferes with the performance of a worker's assigned job responsibilities.
- Use in connection with compensated outside work or unauthorized not-for-profit business activities.
- Use of sniffers, spyware, ad-ware or other related technology.

#### **VII. *Software Protection***

The User is responsible for complying with copyright, licensing, trademark protection, and fair use restrictions.

#### **VIII. *Reporting Incidents***

Users are required to report incidents of system errors, data discrepancies, application performance problems, to the Department Help Desk, at 518-457-5406 phone; 518-485-5588 fax.

**IX. *Department Rights***

Pursuant to the Electronic Communications Privacy Act of 1986 (18 USC 2510 et seq.), notice is hereby given that there are no facilities provided by this system for sending or receiving private or confidential electronic communications. The Department has access to all access attempts, messages created and received, and information created or stored using Department resources, and will monitor use as necessary to assure efficient performance and appropriate use. Information relating to or in support of illegal activities will be reported to the appropriate authorities.

The Department reserves the right to log and monitor use. The Department reserves the right to remove a user account from the network. The Department assumes no responsibility or liability for files or information deleted.

The Department will not be responsible for any damages. This includes the loss of data resulting from delays, non-deliveries, or service interruptions caused by negligence, errors or omissions, or caused by the way the user chooses to use the Department computing facilities.

The Department reserves the right to change its policies and rules at any time.

**X. *Penalties***

The User shall hold the State and the Department harmless from any loss or damage to the State and/or the Department resulting from the User's inappropriate disclosure of information covered by this User Agreement. Further, the User's non-compliance with this Agreement may result in the revocation of system privileges, termination of employment or contract with the Department, and/or criminal and/or civil penalties.

*July 2005*

Name And Address Of Borrower

Department Business Unit (Loaning  
Organization)

Point Of Contact

Work Location

Telephone

Shipping Address (*If different from borrower's*)

Manager's Name

Date To Be Loaned

Date To Be Returned

**Equipment To Be Loaned**

Quantity

Description

Value

Purpose Of Loan

**CONDITIONS OF LOAN**

1. The Borrower of the above equipment agrees to return same in like condition as received from the Department, normal wear and tear excepted, on or before the above return date, unless the loan period is formally extended.
2. Upon termination of this Agreement, Borrower shall uninstall all Department software included in this Agreement from Borrower's computer and/or network equipment.
3. The Borrower shall not make **any** copies of Department software included in this Agreement.
4. In case of loss or damage beyond repair, the Department shall be reimbursed by Borrower at the current price of replacement.
5. The equipment shall not be loaned or transferred to a third party without the written consent of the Department.
6. The right is reserved to cancel the loan or recall the equipment upon \_\_\_\_\_ days notice.
7. The Borrower shall assume all shipping and/or transportation costs involved.
8. Other conditions:

<b>Agreed (Borrower)</b>	<b>Approved (Department)</b>
Borrowing Organization	Loaning Organization
Signature Of Authorized Official	Signature Of Authorized Official
Title	Title
Date	Date

**RECEIPT OF EQUIPMENT**

<b>Borrower</b> <i>(Upon initial receipt)</i>	<b>Department Lender</b> <i>(Upon termination of Agreement)</i>
Borrowing Organization	Loaning Organization
Signature Of Authorized Official	Signature Of Authorized Official
Title	Title
Date	Date