REQUEST FOR PROPOSALS
Financial Audit Services

APPLICATION INFORMATION	
Contact Name	New York eHealth Collaborative
Email Address	nyecprocurement@nyehealth.org
Submission Deadline	November 6, 2026 by 5:00PM EST

All correspondence and proposals should be submitted via email directly to the contact listed above using the subject line:

Financial Audit Services RFP Response — Respondent Name

I. STATEMENT OF PURPOSE

The New York eHealth Collaborative (NYeC) invites proposals from qualified independent certified public accounting firms to provide the audit, tax, and related professional services described in Section V, Scope of Work. This competitive procurement is intended to identify the firm that offers the strongest combination of relevant experience, audit quality, independence, service approach, capacity, and value. The incumbent firm is eligible to submit a proposal and will be evaluated under the same criteria as all other respondents.

NYeC intends to select an independent certified public accounting firm to perform the annual financial statement audit, any required Single Audit, federal and state information return preparation, and related governance communications. NYeC anticipates an initial one-year term, with renewal options, pricing adjustments, or additional services subject to the final agreement and required organizational approvals.

II. INTRODUCTION

NYeC is a statewide 501(c)(3) nonprofit organization working to improve healthcare and patient outcomes by collaboratively leading, connecting, and integrating health information exchange (HIE) throughout New York State. NYeC works with a diverse group of stakeholders from across the state, nation, and care continuum to advance health information technology (HIT) and HIE. NYeC develops policies, operates statewide technology, promotes standards and workflows, fosters innovation, and conducts analyses that support the value of technology and information exchange to improve the health of New Yorkers.

As the State Designated Entity (SDE) for health information exchange, NYeC partners with the New York State Department of Health (Department) to lead the Statewide Health Information Network for New York (SHIN-NY), a network of networks, connecting healthcare professionals and regional HIE organizations (known as Qualified Entities or QEs) across the state. Through the SHIN-NY, participating health care professionals can quickly access electronic health information and securely exchange data statewide for patients who have given consent. By utilizing the SHIN-NY, healthcare professionals make informed decisions faster, enabling collaboration and coordination of care to improve patient outcomes, reduce unnecessary and avoidable tests and procedures, and lower healthcare costs.

Additional information regarding NYeC can be found on the NYeC website www.nyehealth.org.

III. BACKGROUND INFORMATION

NYeC has offices in Albany, NY and New York City with approximately 45 total employees. Total annual revenues are approximately $86 million resulting from New York State and Federal grants and contracts and minimum revenues from fundraising events. NYeC's fiscal year is April 1 – March 31.

IV. ELIGIBILITY CRITERIA

To be eligible for consideration, a respondent must satisfy all requirements below.

- Be an independent certified public accounting firm, properly licensed and in good standing to practice in New York, and satisfy all applicable professional, regulatory, and independence requirements.
- Demonstrate a minimum of ten (10) years of experience auditing nonprofit organizations and entities receiving New York State and Federal funding.
- Demonstrate substantial recent experience performing Single Audits under the Uniform Guidance and Government Auditing Standards.
- Demonstrate substantial recent experience preparing Form 990 and applicable New York charitable filings, including Form CHAR500.
- Perform the engagement through a secure and efficient combination of remote and on-site procedures, with on-site attendance at the NYeC Albany location when requested for planning, fieldwork, governance presentations, or other engagement needs.
- Perform all services exclusively through personnel physically located in the United States. No audit, tax, information technology, administrative, processing, shared service, subcontracted, or other engagement work may be performed outside the United States, and NYeC information may not be accessed, stored, transmitted, processed, or reviewed from outside the United States. The proposal must confirm compliance and identify the U.S. location of each proposed team.
- Must be in good standing with NYeC, the Department and the New York State Workers Compensation Board.
- Must complete the New York State Vendor Responsibility Questionnaire: File Your Vendor Responsibility Questionnaire.
- Adherence to certain New York State grant contract, confidentiality, and other requirements.
- Execution of NYeC's Master Services Agreement (Attachment 1: MSA Template).

Each respondent must disclose all actual, potential, or perceived conflicts of interest and identify any relationships or services that could impair independence. The selected firm will be required to confirm independence before appointment and throughout the engagement and to promptly notify NYeC of any circumstance that could affect independence or objectivity.

V. SCOPE OF WORK

The engagement must be performed in accordance with auditing standards generally accepted in the United States of America and all other standards applicable to the engagement, including Government Auditing Standards and the audit requirements of the Uniform Guidance when a Single Audit is required. The selected firm will express an opinion on whether NYeC's financial statements are presented fairly, in all material respects, in accordance with accounting principles generally accepted in the United States of America. ("U.S. GAAP").

The selected organization will provide NYeC with a scope of work proposal for the following:

1. **Report on Financial Statements** — Audit NYeC's annual financial statements, including the statement of financial position and the related statements of activities, functional expenses, and cash flows, together with the accompanying notes. Provide the independent auditor's report and any communications required by professional standards.

2. **Single Audit** — Perform a Single Audit in accordance with the Uniform Guidance and Government Auditing Standards. The reporting package must include the schedule of expenditures of federal awards, reports on internal control and compliance, the schedule of findings and questioned costs, and other required components.

3. **Tax and Charitable Filings** — Prepare NYeC's federal Form 990 and applicable New York State charitable filings, including Form CHAR500, for the fiscal year. The selected firm must provide draft returns sufficiently in advance of filing deadlines to support management and governance review and must submit final filings only after receipt of required approvals.

4. **Audit Committee Communications** — Pre-audit presentation and presentation of the post-audit report, Form 990(s), and the management letter at the board's audit committee meetings.

5. **Additional Services** — Consultation on financial and other matters related to the organization as required.

6. **Management Letter and Findings —** Communicate control deficiencies, significant deficiencies, material weaknesses, compliance findings, and other recommendations in writing. Meet with management to discuss findings before issuance, distinguish required audit findings from advisory observations, and provide a final management letter that supports responsible-party assignment and remediation tracking.

7. **Information Security and Confidentiality —** The selected firm must use secure methods approved by NYeC for requesting, receiving, storing, and transmitting engagement information; limit access to authorized engagement personnel; promptly report any suspected unauthorized disclosure or security incident; comply with applicable confidentiality requirements; and return or securely dispose of information in accordance with the final agreement and applicable retention requirements. NYeC does not anticipate providing protected health information for this engagement.

8. **Artificial Intelligence Use and Compliance —** "AI Systems" is defined as a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments. The selected firm may not use NYeC financial data as an input to, or otherwise disclose, transmit, or make NYeC financial data available to, any AI Systems without NYeC's prior written approval of the specific AI System and proposed use. Any request for approval must describe how the NYeC financial data will be used, processed, stored, retained, and protected, including whether the data will be accessible to the AI System provider or any third party or used to train or improve any model. The firm may use an approved AI System only for the approved purpose and subject to any conditions imposed by NYeC. In all cases, NYeC financial data may not be used to train or improve any public, shared, or provider model, and the selected firm must maintain confidentiality consistent with the MSA between the selected firm and NYeC.

VI. CONTENTS OF PROPOSAL

1. **Profile of Firm:** Please include responses to the following prompts related to your firm's background, experience, and approach to fulfilling this engagement.

    a. Describe the firm on an overall basis.
    b. Summarize the firm's qualifications regarding nonprofit organizations from an audit, Single Audit, and tax perspective.
    c. Give the firm's staffing assignments to the initial engagement. For each individual, provide relevant qualifications, expected responsibilities, anticipated level of effort, and availability, and primary U.S. work location. Disclose any proposed anticipated use of subcontractors, offshore resources, or shared-service centers and confirm that all such resources are in the United States. Offshore or other international resources are not permitted.
    d. Identify any and all AI systems (as defined above in Section V.8) that will be used by the firm to process or analyze any NYeC data provided during the engagement, the systems purpose with relation to completion of the scope of work, and the scope of NYeC data that the tool or system will process during the engagement.
    e. Provide the firm's most recent peer review report.

2. Workplan: The engagement is expected to begin early in 2027 to conduct the Fiscal Year 27 audit. Respondents must propose a detailed schedule covering planning, interim procedures, client assistance requests, fieldwork, issue resolution, draft financial statements and reports, governance review, final issuance, and tax filings. The proposed schedule must identify dependencies on NYeC, escalation points, and the firm's ability to meet mutually agreed reporting and filing deadlines.

Key Audit Deliverable Dates:

Key Deliverable	Required Date
Engagement Start	January 2027
PBC List & Portal Access Provided	April 2027
Key NYeC Materials Provided	May 2027
Draft Statements Provided	July 2027
Audit Committee Presentation	September 2027
Final Statements Issued	September 2027

In developing a response as it relates to the Scope of Work Section V, applicants should consider the following items and address both quality and responsiveness in the workplan.

a. **Quality of Audit**:
   - Describe the proposed audit methodology, including risk assessment, materiality, internal control understanding and testing, fraud considerations, use of data analytics, information technology considerations, sampling, reliance on internal reports, coordination of the financial statement and Single Audit procedures, review of estimates, and communication of emerging issues.
   - Describe how your firm will obtain a basic understanding of NYeC's operations and activities for planning the audit.
   - Describe the firm's experience in dealing with other nonprofit clients like NYeC.
   - Describe any services, other than audits, offered by the firm.

b. **Responsiveness to NYeC**:
   - Describe the procedures and tools the firm will use to manage requests, monitor progress, communicate status, resolve issues, control changes in scope, and escalate risks. Identify the proposed frequency and format of status meetings and explain how the firm will minimize disruption to NYeC operations while meeting agreed deadlines.
   - Identify key local engagement personnel who will be continuously available for consultation or discussion.
   - Describe any relationships with your existing clients that might jeopardize your objectivity or independence.
   - Provide at least three client references for engagements of comparable size and complexity, preferably nonprofit organizations or entities receiving New York State or federal funding. For each reference, provide the organization name,

engagement scope, service period, contact name, title, telephone number, and email address.

3. **Cost Proposal:** Provide a fixed-fee proposal by service component for the financial statement audit, conditional Single Audit, Form 990, and New York charitable filings.

VII. APPLICATION PROCESS AND TIMELINE

A selection committee will evaluate proposals against the criteria stated in this RFP. NYeC may request written clarifications, presentations, interviews, or best-and-final offers from one or more respondents. Failure to provide requested information or satisfy a mandatory requirement may result in disqualification.

All communications concerning this RFP must be directed to the designated procurement mailbox indicated on the cover page. Respondents may not contact NYeC employees, officers, Board members, advisors, contractors, New York State Department of Health staff or any other stakeholders regarding this procurement unless expressly authorized in writing. Material questions and NYeC responses may be shared with all respondents to promote a fair and consistent process.

Questions regarding this RFP must be submitted to the designated procurement mailbox by the deadline shown in the procurement schedule. NYeC will issue written responses posted to the NYeC website: www.nyehealth.org.

NYeC reserves the right to amend or cancel this RFP at any time prior to a signed contract. NYeC is not responsible for any costs incurred in the preparation of a response to this RFP.

Please submit your application in Microsoft Word format using font size 12 with a maximum of 12 pages. All valid applications must include all sections identified in the evaluation criteria.

Procurement Timeline

Item	Date or Target
RFP release	10/5/2026
Deadline for questions	10/8/2026
Q&A issued	10/16/2026
Proposals due	11/6/2026 by 5:00pm EST
Finalist interviews, if conducted	11/16/26-11/20/26 (approx.)

VIII. EVALUATION CRITERIA

Proposals will be evaluated using the following weighted criteria. NYeC may also consider interviews, responsiveness, contractual exceptions, and due diligence results in determining the final award.

1. Profile of Firm — 30 points
2. Workplan — 40 points
3. Cost – 30 points

VIX. ATTACHMENTS

Attachment 1: MSA Template

ATTACHMENT 1

MASTER SERVICES AGREEMENT

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ATTACHMENT 1

NEW YORK eHEALTH COLLABORATIVE

MASTER SERVICES AGREEMENT

This Master Services Agreement (together with all exhibits hereto, this "Agreement") is made and entered into as of $contract_start_date ("Effective Date") by and between New York eHealth Collaborative, Inc. a 501(c)(3) nonprofit corporation with its principal place of business at 99 Washington Avenue, Suite 1750, Albany, NY 12210 ("NYeC"), and $company_name, a $company_type with its principal place of business at $street_address $street_address_2, $city0, $state_province$zip_or_postal_code0 ("Consultant").

WITNESSETH:

WHEREAS, NYeC is developing a consolidated network linking state health information systems with the Statewide Health Information Network for New York pursuant to the Health Care Efficiency and Affordability Law (the "Program");

WHEREAS, NYeC is the recipient of certain grant funding (the "Grants") from the United States Department of Health and Human Services ("HHS") Office of the National Coordinator of Health Information Technology and the New York State Department of Health ("NYSDOH" and together with the HHS, the "Grant Makers");

WHEREAS, NYeC has entered into a contract with the Grant Makers (the "Grant Contracts") pursuant to which, among other things, the Grant Contracts will fund the services to be provided by Consultant pursuant to this Agreement; and

WHEREAS, NYeC is retaining Consultant to provide, and Consultant agrees to provide, the professional services (the "Services") and/or reports, deliverables and/or other work product (as defined in Section 14 of this Agreement) (collectively, the "Deliverables") described in each Statement of Work (a "Statement of Work") that the parties may execute from time to time during the term of this Agreement.

NOW, THEREFORE, in consideration of the mutual terms, conditions and covenants set

forth herein, the parties agree as follows:

1. Consultant's Services

a. Services. In connection with the Program, Consultant agrees to perform the Services and/or deliver the Deliverables described in the Statement(s) of Work, each of which shall be incorporated herein by reference. Each Statement of Work must be executed by duly authorized representatives of both parties. Consultant shall render the Services and deliver the Deliverables in accordance with the timetable and milestones (if any) in the applicable Statement of Work. In the event Consultant anticipates at any time that it will not reach a milestone or complete an assignment within the timetable prescribed by the applicable Statement of Work, Consultant shall promptly so inform NYeC, submit proposed revisions to the timetable and milestones that reflect Consultant's best estimates of what can realistically be achieved, and continue to work until otherwise directed by NYeC; provided, however, that any such revisions shall be subject to the approval of NYeC in its sole discretion. Consultant shall also prepare and submit such reports of its performance and its progress from time to time as NYeC may reasonably request. Notwithstanding anything to the contrary herein, time shall be of the essence with respect to the Services and Deliverables hereunder.

b. Progress Reporting. Where deemed applicable and requested by NYeC, the parties shall meet (in person, by teleconference or such other mechanism as the parties shall determine) for the purpose of Consultant reporting to NYeC on the progress of the Services and/or Deliverables under the applicable Statement of Work. Progress reports shall include a summary of status on milestones, potential or actual slippage in meeting deadlines, Deliverables or portions thereof completed, and Services in progress. Concurrently with each meeting, Consultant shall be obligated to provide NYeC with all code, development notes and related materials, to the extent applicable, pertaining to the Services and each completed and pending Deliverable. Consultant may not withhold any of the foregoing information from NYeC for any reason.

c. Acceptance Procedures. Consultant shall perform reasonable quality-assurance testing on any software Deliverables before submitting them to NYeC, unless otherwise provided in the applicable Statement of Work and shall inform NYeC of any known defects or "bugs" existing at the time of delivery. NYeC shall, within sixty (60) days of receipt of each Deliverable (if any) subject to acceptance testing, or within such longer time as may be specified in the applicable Statement of Work, advise Consultant of the acceptance or rejection of that Deliverable by NYeC or the Grant Makers, as applicable. Any rejection shall specify the nature of the deficiencies in the Deliverable, and Consultant shall act diligently to correct the noted deficiencies promptly. NYeC shall not be obligated to pay for rejected Deliverables. Acceptance of work or Deliverables shall not constitute a waiver of any of Consultant's representations or warranties included elsewhere in this Agreement. Acceptance procedures shall be subject to modification by NYeC from time to time by written notice to Consultant.

2. Payment Terms

a. Compensation. In consideration for performing the Services and delivering the Deliverables, NYeC shall pay Consultant in accordance with the terms specified in the applicable Statement of Work and incorporated by reference.

b. Manner of Payment. Within 15 days following the end of each month (or, with respect to the final invoice, within 30 days following the termination or expiration of this Agreement), Consultant shall submit to NYeC an invoice with the contract number $id and applicable SOW or work order number as determined by NYeC, clearly marked on the invoice, showing Services performed, Deliverables provided, hours worked each day. If applicable, Consultant may also seek reimbursement for reasonable and necessary travel and lodging expenses that are 1) previously approved in writing by NYeC, and 2) when such expenses are in alignment with the NYeC "Travel Reimbursement Policy for Vendors and Consultants," together with such supporting documentation as may be required by NYeC. The invoice should be sent to NYeC at the following address:

New York eHealth Collaborative
Attn: Invoices
99 Washington Avenue, Suite 1750
Albany, NY 12210
invoices@nyehealth.org

Any payment under this Agreement is contingent upon Consultant's satisfactory performance of the Services and delivery of the Deliverables in accordance with the requirements of this Agreement. NYeC may disallow for payment of any expense or charge which was not authorized or documented in accordance with the terms of this Agreement. NYeC shall pay Consultant all invoiced amounts that are not the subject of a good faith dispute within thirty (30) days of payment to NYeC by the Grant Makers pursuant to the Grant Contracts for accepted Services and/or Deliverables provided by Consultant. NYeC shall not be obligated to pay any portion of an "Improper Invoice." An "Improper Invoice" is defined as any invoice that is not fully compliant with the requirements of this Agreement. Payment is also contingent upon Consultant's submission of a completed W-9 Form.

3. Status as Independent Contractors

a. General. This Agreement shall not constitute, create, or otherwise imply an employment, joint venture, partnership, agency or similar arrangement, and nothing contained herein shall be construed as providing for the sharing of profits or losses arising from the efforts of either or both of the parties hereto. Each party to this Agreement shall act as an independent contractor, and neither party shall have the power to act for or bind the other party except as expressly provided for herein. Consultant assumes sole responsibility for determining the manner and means of performance hereunder.

b. Ineligible for Employee Benefits. Consultant and its employees shall not be eligible for any benefit available to employees of NYeC, including, but not limited to, workers' compensation insurance, state disability insurance, unemployment insurance, group health and life insurance, vacation pay, sick pay, severance pay, bonus plans, pension plans, savings plans and the like.

c. Taxes. No income, social security, state disability or other federal or state payroll tax will be deducted from payments made to Consultant under this Agreement. Consultant agrees to pay all state and federal taxes and other levies and charges as they become due on account of monies paid to Consultant hereunder, and to defend, indemnify and hold NYeC harmless from and against any and all liability resulting from any failure to do so.

4. Term

The term of this Agreement will commence on the effective date, as set forth in the preamble to this Agreement and, unless earlier terminated in accordance with Section 6, shall continue until the expiration of any and all Statement(s) of Work.

5. Breach

A party shall be deemed to have breached this Agreement if any of the following occurs:

a. failure to perform or noncompliance with any requirement, term or provision of this Agreement;

b. cessation of operations in the normal course of business;

c. insolvency or the entering into or filing by or against the party of a petition, arrangement or proceeding seeking an order for relief under the bankruptcy laws of the United States, a receivership for any of the assets, a composition with or assignment for the benefit of creditors, a readjustment of debt, or the dissolution or liquidation of a party;

d. any act prohibited or restricted by this Agreement, state or federal law, rule, or regulation;

e. violation of any representation or warranty; or

f. Consultant or its representatives is debarred or sanctioned, loses any license required to perform the services required under this Agreement.

For purposes of this Agreement, these items, separately or collectively, shall hereinafter be referred to as a "Breach."

6. Termination by NYeC

a. Termination for Convenience. NYeC shall have the right to terminate this Agreement for convenience upon thirty (30) calendar days' notice to Consultant.

b. Termination for Breach. In the event of a Breach, NYeC may terminate this Agreement, in whole or in part, consistent with the terms of Section 5 and this Section 6. Consultant shall be notified of the termination in writing by NYeC. Said notice shall hereinafter be referred to as Termination Notice. The Termination Notice will specify the effective date of termination, or that the Consultant shall cease operations under this Agreement in stages. NYeC may terminate this Agreement without waiver of any other remedy or damages available to it at law or at equity. The Consultant shall be liable to NYeC for any and all damages incurred by NYeC and any and all expenses incurred by NYeC which exceed the amount NYeC would have paid Consultant under this Agreement. In the event Consultant defaults on this Agreement in whole or in part, NYeC may procure, the same or substantially the same, Services and/or Deliverables or other products as those so terminated and Consultant shall, without prejudice to any other rights or remedies available to NYeC, be liable to NYeC for any excess costs for the procurement of such substantially similar Services, Deliverables or other products; provided, however, that Consultant shall continue the performance of this Agreement to the extent not terminated under the provisions of this Section 6(b). NYeC shall use reasonable care to mitigate the amount of excess costs for which Consultant may be liable hereunder. With respect to termination under this Section 6(b), Consultant shall have ten (10) business days to cure the Breach specified in the Termination Notice which cure period shall commence at the time specified in the Termination Notice.

c. Immediate Termination. Notwithstanding anything to the contrary herein, NYeC may terminate this Agreement immediately and without prior notice if (i) a Grant Contract is terminated for any reason; or (ii) changes in the funds available occur that affect this Agreement or the Grant Contracts; or (iii) a Grant Maker directs NYeC to terminate the Consultant's services under this Agreement; or (iv) Consultant violates any state or federal law, rule, or regulation, Section 13, 14 or 15 of this Agreement, and to the extent applicable, the Information Security Requirements Addendum attached hereto as EXHIBIT 1 and the Business Associate Subcontractor Agreement attached hereto as EXHIBIT 4 (each incorporated herein by reference); or (v) the Consultant declares bankruptcy or there is a material adverse change in its financial status, as determined by NYeC in its sole discretion.

d. Compensation Upon Termination. Subject to Section 2 of this Agreement, NYeC shall compensate Consultant for work satisfactorily performed up to the effective date of the termination less any amounts that are the subject of a good faith dispute. In no event, however, shall the amount payable to Consultant in connection with a termination exceed the total value of this Agreement as set forth in the applicable Statement of Work.

e. Termination of Services and Return of NYeC Property. Upon the expiration or earlier termination of this Agreement, Consultant shall immediately terminate the services hereunder, and shall deliver promptly to NYeC all property relating to the business, work and investigations of NYeC, and to any Deliverables, work in progress or documents in connection with the Services. Such property shall include but not be limited to all hardware and software, written, graphical, and recorded material, and any copies, abstracts or summaries thereof. Consultant agrees to cooperate with NYeC in the event this Agreement is terminated for any reason.

7. Termination by Consultant for Breach

In the event of a Breach this Agreement by NYeC, Consultant shall notify NYeC in writing within ten (10) business days of any Breach of contract by NYeC. Said notice shall contain a description of the Breach. Failure by the Consultant to provide said written notice shall operate as an absolute waiver by the Consultant of NYeC's Breach. In no event shall any Breach on the part of NYeC excuse the Consultant from full performance under this Agreement. In the event of Breach by NYeC, the Consultant may avail itself of any remedy at law in the forum with appropriate jurisdiction; provided, however, failure by the Consultant to give NYeC written notice and opportunity to cure as described herein operates as a waiver of NYeC's Breach. Failure by the Consultant to file a claim before the appropriate forum in New York State with jurisdiction to hear such claim within six (6) months of the written notice of Breach shall operate as a waiver of said claim in its entirety. This provision establishes a contractual period of limitations for any claim brought by the Consultant.

8. Intentionally Omitted

9. Intentionally Omitted

10. Changes

NYeC may, at any time by written order ("Change Order"), make changes in the Consultant's Services within the general scope of the applicable Statement of Work. If any Change Order causes a significant increase or decrease in the Consultant's cost of, or time required for, or the performance of any part of the work, Consultant shall present a proposal to NYeC within five (5) business days of receipt of the Change Order and the parties shall negotiate an equitable adjustment, and the applicable Statement of Work shall be modified in writing accordingly. Notwithstanding the foregoing, Consultant shall make all reasonable efforts to limit any increase in costs and delays in schedule. In addition, the parties agree to negotiate in good faith to revise this Agreement in the event of (i) legislation or court action that affects this Agreement or the Grant Contracts; (ii) changes in the funds available that affect this Agreement or the Grant Contracts; or (iii) other changes reasonably requested by NYeC necessary to make this Agreement consistent with NYeC's obligations to the Grant Makers.

11. Standard of Performance

a. Expertise. Consultant warrants and represents that it possesses the special skill and professional competence, expertise and experience to undertake the obligations imposed by this Agreement. Consultant agrees to perform in a diligent, efficient, competent and skillful manner commensurate with the highest standards of the profession, and to devote such time as is necessary to perform the Services and/or deliver the Deliverables required under this Agreement. Consultant agrees to remove and replace any of its personnel who, in the sole judgment of NYeC, are not performing their responsibilities at an acceptable level.

b. **Intentionally Omitted**

c. Vendors and Subcontractors. Prior to execution of this Agreement, Consultant will provide to NYeC, in writing, a list of proposed vendors and subcontractors that will provide any goods or services in connection with Consultant's performance of Services hereunder and shall update such list from time to time to maintain its accuracy. NYeC will approve or reject such vendors and subcontractors at its discretion ("Approved Vendors and Subcontractors"). All Approved Vendors and Subcontractors will provide services at the direction of Consultant, and Consultant shall: 1) maintain full responsibility for Approved Vendors and Subcontractors meeting all of Consultant's obligations hereunder, and 2) indemnify and hold harmless NYeC and its Representatives and NYSDOH from any and all claims arising from or relating to the services provided by Approved Vendors and Subcontractors, including, without limitation, claims for payment in connection with the provision of Services and Deliverables.

12. Conflicts of Interest

Consultant represents and warrants that (i) the work hereunder will not create an actual or apparent conflict of interest with any other work it might perform and (ii) Consultant is not subject to any statute, regulation, ordinance or rule that will limit its ability to perform the obligations under this Agreement. The parties agree that Consultant shall be free to accept other work during the term hereof; provided, however, that the Consultant is aware of the business strategy of NYeC, such other work shall not interfere with the provision of Services and/or Deliverables. Under no circumstances will NYeC prohibit the consultant from performing work (x) where the work product is to be operationalized outside of the state of New York or (y) under its pre-existing work relationships with any Regional Health Information Organizations (also referred to as "Qualified Entities" or "QEs").

13. Proprietary and Confidential Information

a. NYeC Confidential Information. Consultant acknowledges and agrees that in performing its obligations under this Agreement, Consultant may have access to or be exposed to, directly or indirectly, confidential information that is proprietary to NYeC. Confidential Information means all information, whether in written, oral,

visual, magnetic, electronic or any other form, furnished prior to or after the date hereof by or on behalf of NYeC or any of its trustees, members, managers, directors, officers, partners, associates, affiliates, employees, agents or representatives (collectively, "Representatives") to Consultant or Consultant's Representatives, and all reports, analyses, compilations, studies and other materials prepared by Consultant (in whatever form maintained, whether documentary, computer storage or otherwise) containing, reflecting or based upon, in whole or in part, any such Confidential Information. Confidential Information includes, without limitation, with respect to NYeC and the Grant makers: (a) financial information, business models, pricing and margin formulae, business line or customer profitability, promotion plans, sales and marketing plans, financing and capital plans, plans for existing business lines, future business and marketing plans, and customer lists; (b) all information related to company structure, owners, management, employees, assets, income and expenses including, without limitation, business, corporate, and operations; (c) know-how, techniques, methods, information tools, software development, trade secrets, technology, potential products, potential business operations, technical information, inventions, product design information, and all other intellectual property information or data; and (d) all information, that, if released to unauthorized persons, could be detrimental to the business interests of NYeC, its customers or clients. Mingling Confidential Information with information of Consultant shall not affect the confidential nature or ownership of the Confidential Information.

b. Exceptions. The term "Confidential Information" does not include information which Consultant can document: (i) is or becomes generally available to and known by the public other than as a result of a disclosure by Consultant, its Representatives, anyone to whom Consultant or any of its Representatives transmits any Confidential Information in violation of this Agreement or any third party in violation of NYeC's rights; or (ii) is or becomes known or available to Consultant on a non-confidential basis from a source (other than NYeC or one of its Representatives) who acquired the Confidential Information in a lawful manner without any violation of NYeC's rights and who is not prohibited from transmitting the information to Consultant or its Representatives by a contractual, legal or fiduciary obligation or otherwise in violation of NYeC's rights. For the purposes of this Section 13(b), Confidential Information shall only be deemed to be generally available to and known by the public if: (a) more than certain individual features or components of such Confidential Information are or become known to the public; and (b) such Confidential Information is contained in documents, materials or disclosures of general circulation and generally accessible to the public.

c. Representatives. Consultant may disclose Confidential Information to its Representatives who are approved in advance by NYeC and only if and to the extent that such Representatives reasonably need to know the Confidential Information to assist Consultant with the Services and/or Deliverables. Consultant shall inform such Representatives of the confidential nature of the Confidential Information and the terms of this Agreement and such Representatives shall agree in writing to be bound by this Agreement, including the restrictions on disclosure set forth herein.

Consultant shall be responsible for any actions by its Representatives which are not in accordance with these provisions.

d. Permitted Use/Restrictions. Consultant and its permitted Representatives will review and use Confidential Information solely as necessary to proceed with the provision of the Services and for no other purpose. Consultant shall, and shall cause each permitted Representative to: (i) regard and preserve as confidential all Confidential Information which may be obtained from any source as a result of this Agreement; (ii) treat Confidential Information with the same degree of care with which it treats its own confidential information, and in no case less than a reasonable degree of care; (iii) not alter, decompile, disassemble, reverse engineer, or otherwise modify any Confidential Information; (iv) not remove any copyright notice, trademark notice, and/or other proprietary legend or indication of confidentiality set forth on or contained in any of the Confidential Information; (v) not, without NYeC's prior written consent, disclose or make available to any person, firm or other entity, reproduce or transmit, or use (directly or indirectly) for its own benefit or the benefit of others, any such Confidential Information in whole or in part; and (vi) promptly advise NYeC in writing of any unauthorized use or disclosure of Confidential Information of which Consultant becomes aware and shall provide reasonable assistance to NYeC to stop such unauthorized use or disclosure.

e. Legally Compelled Disclosure. If Consultant or any of its Representatives are legally required (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process) to disclose any Confidential Information, Consultant will promptly notify NYeC of such requirement so that NYeC may seek to avoid or minimize the required disclosure and/or to obtain an appropriate protective order or other appropriate relief to ensure that any information so disclosed is maintained in confidence to the maximum extent possible by the agency or other person receiving the disclosure, or, in the discretion of NYeC, to waive compliance with the provisions of this Agreement. Consultant will use its reasonable efforts to cooperate with NYeC or otherwise to avoid or minimize the required disclosure and/or to obtain such protective order or other relief. If, in the absence of a protective order or the receipt of a waiver hereunder, Consultant or any Representative is compelled to disclose the Confidential Information or else stand liable for contempt or suffer other sanction, censure or penalty, Consultant will disclose only so much of the Confidential Information to the party compelling disclosure as Consultant believes in good faith on the basis of advice of counsel is required by law. Consultant shall give NYeC prior notice of the Confidential Information Consultant believes Consultant or its Representative is required to disclose.

f. Return. Upon request of NYeC at any time, and in any event upon termination of the Agreement, Consultant shall return to NYeC all originals as well as copies of all Confidential Information and any tangible material containing, prepared on the basis of, or reflecting, in whole or in part, any such Confidential Information, or reflecting Consultant's or its Representatives' review of, or interest in, the Services including, without limitation, all reports, analyses, compilations, studies (in whatever form

maintained, whether documentary, computer storage or otherwise) that are in Consultant's or its Representatives' possession or control; provided, that Consultant may, upon prior written approval of NYeC, destroy certain Confidential Information in lieu of its delivery to NYeC. Notwithstanding the delivery or destruction of Confidential Information, Consultant will continue to be bound by its obligations of confidentiality and other obligations as required hereunder. Thereafter, Consultant shall not reveal, publish, use or disclose to anyone else, directly or indirectly, any Confidential Information, or permit or assist, by acquiescence or otherwise, anyone else to reveal, publish, use or disclose, directly or indirectly, any such Confidential Information. Consultant shall certify in writing to NYeC that all such Confidential Information has been returned or destroyed, as the case may be, in accordance with this Section 13(f).

14. Ownership of Work Product and Deliverables

a. Work Product and Deliverables. Consultant agrees that all work product, inventions, discoveries, ideas, concepts, designs, specifications, reports, data, software, information systems, processes, methods, formulas and techniques, as well as improvements thereof or know-how related thereto (collectively "Work Product") and Deliverables which are created by or on behalf of Consultant in the performance of this Agreement shall be the sole property of NYeC. Consultant agrees that all such copyrightable Work Product and Deliverables created by it for NYeC shall from inception be considered "works made for hire" and shall be the exclusive property of NYeC or its designee, and Consultant hereby expressly waives any right or interest it may have therein. To the extent such Work Product, Deliverables or any portion thereof may not be considered a "work made for hire", Consultant hereby assigns all its rights, title, interest and ownership in all Work Product and Deliverables created hereunder and any portion thereof, throughout the world, to NYeC, including, without limitation, all moral rights (and where and to the extent such rights may be non-assignable, Consultant waives in NYeC's favor, any and all moral rights) and Consultant agrees that NYeC shall be the sole and absolute owner of all Work Product and Deliverables created by it hereunder. Consultant agrees to provide, without additional compensation, such instruments, papers and assistance as may reasonably be required by NYeC in evidencing or effectuating ownership in NYeC of such Work Product and Deliverables, obtaining patents and copyrights for such Work Product and Deliverables, and in enforcing any NYeC rights and interests relating to such Work Product and Deliverables or to any patents or copyrights resulting therefrom, including without limitation the execution by Consultant of all applications, assignments and other instruments as NYeC may request. Consultant's pre-existing intellectual property shall remain the property of Consultant; provided, however, that to the extent the Consultant incorporates such intellectual property into any materials delivered to NYeC hereunder, Consultant hereby grants to NYeC and the Grant Makers a perpetual, royalty-free, non-exclusive license to use such intellectual property to carry out the purposes of this Agreement and the Grant Contracts.

b. No Limitations. Consultant warrants and represents that all of the Work Product, Deliverables, findings and recommendations disclosed to NYeC during the term of this Agreement may lawfully be disclosed by Consultant and are not subject to any patent, license agreement, confidentiality agreement, trade secret law or any other restriction on use by or disclosure to NYeC.

15. Privacy and Security; Business Associate Agreement

a. Proprietary Data. Consultant has executed and delivered to NYeC as of the Effective Date, and will periodically renegotiate and modify at NYeC's request or when required by applicable Laws, and will comply with the terms and conditions set forth in the Information Security Requirements Addendum attached hereto as Exhibit 1. Consultant acknowledges that all proprietary data and personal information it may receive, have access to, or become acquainted with, including but not limited to Personally Identifiable Information, any similar type of information, as those terms are defined in the Information Security Requirements Addendum (EXHIBIT 1) (collectively referred to herein as "Proprietary Data"), is confidential. If in performance of its obligations under the Agreement, Consultant will, or is likely to, have access to Proprietary Data, Consultant represents, warrants, and covenants that Consultant and its Representatives will meet the obligations and restrictions provided in the Information Security Requirements Addendum (EXHIBIT 1). Consultant agrees, on behalf of itself and its Representatives, not to disclose, directly or indirectly, to anyone, or to use or let others use, for any purpose whatsoever, any Proprietary Data, of any type, whether or not designated confidential or proprietary, acquired in the course of performing under this Agreement. Consultant also agrees not to use or disclose any Proprietary Data in violation of securities or insider trading laws. Consultant shall meet the requirements set forth in the Information Security Requirements Addendum (EXHIBIT 1), and shall protect any and all Proprietary Data in its possession using the same standard of care it uses to protect its own confidential and proprietary information, but in no event less than a reasonable standard of care or that standard of care which may be required by law, including but not limited to the Privacy Rule, as defined in the Information Security Requirements Addendum EXHIBIT 1.

b. Business Associate Agreement. To the extent Consultant is or subsequently becomes a Business Associate, as defined in 45 C.F.R. §160.103, or a subcontractor of a Business Associate or a Business Associate of a Business Associate due to its performance of Services under this Agreement, Consultant agrees, in addition to meeting the obligations provided in Section 15(a), to abide by the requirements in the Business Associate Subcontractor Agreement attached hereto as EXHIBIT 4 (incorporated herein by reference) and under the Privacy Rule and Security Rule, as defined and set forth in EXHIBIT 4.

16. Equal Employment

a. Employment. Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Consultant will

take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

b. Solicitations and Advancements. Consultant will, in all solicitations or advancements for employees placed by or on behalf of Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

17. Indemnification

During and after the term of this Agreement, Consultant shall, at its sole cost and expense, defend, indemnify and hold NYeC and its Representatives, and the Grant Makers and all of their respective employees, officers, directors, trustees, agents, successors and assigns and representatives harmless from and against any and all Claims and Losses (including, without limitation, liquidated damages), which may arise from, relate to, or are connected, in whole or in part, out of (i) the Services, Deliverables and/or work product or the negligence or willful misconduct of the Consultant, or any of its consultants, contractors or Representatives, (ii) a breach by Consultant or any of its consultants, contractors or Representatives, of the terms and conditions of this Agreement, (iii) failure of Consultant to perform the Services and its obligations hereunder consistent with the applicable Statement of Work, (iv) any alleged breach of Section 15, and if applicable, the Business Associate Subcontractor Agreement EXHIBIT 4, or (v) Consultant or any of its consultants, contractors, or Representatives, infringes any third party's patent, copyright or other intellectual property rights. The indemnity required herein shall not be limited by reason of the specification of any particular insurance coverage. Consultant shall not settle any Claim without NYeC's prior written consent. Pursuant to this Section 17, NYeC shall have sole discretion to choose and appoint counsel to defend against any Claims. For purposes of this Section 17, the "Claim" means any demand, or any civil, criminal, or investigative claim, action, or proceeding (including arbitration) asserted, commenced or threatened against an entity or person. "Losses" shall mean all judgments, awards, settlements, liabilities, damages, liens and claims, and all related costs, expenses and other charges suffered or incurred as a result of or in connection with a Claim, including reasonable attorneys' fees and disbursements, costs of investigation, litigation, settlement and judgment, and any taxes, interest, penalties and fines with respect to any of the foregoing.

18. Insurance

Unless greater amounts are otherwise specified in the Grant Contracts, Consultant agrees to carry, for the term of this Agreement, the following insurance in the amounts indicated

with insurance carriers that are licensed in the state(s) where the services will be performed:

a. Commercial General Liability insurance for Bodily Injury and Property Damage for limits not less than $$1,000,000 per occurrence/$$2,000,000 aggregate including coverage for Consultant's obligations, operations, premises (including damage to rented premises), independent contractors/subcontractors, defense and/or indemnification obligations, products/completed operations, medical expense, personal injury and advertising injury on a per-project basis.

b. Workers' Compensation and Employers' Liability insurance as required by New York State Workers' Compensation Law.

c. Professional Liability in the amount of $$5,000,000, including, without limitation, cybersecurity liability arising out of Consultant's access, disclosure, use or misuse of electronic or paper records and files, including financial, personal, and/or HIPAA-protected material. Such policy shall also provide coverage for electronic data processing errors and omissions arising out of the development and deployment of the Program, covering, as applicable, the work being performed: technology products (hardware, firmware, software), technology information/services, media liability, internet media content, network security liability, web content liability, internet professional liability, physical theft of data, identity theft.

d. Disability Benefits as required by New York State Disability Benefits Law.

e. Combination Primary and Umbrella/Excess liability policies necessary to meet the required limits. All of the above policies shall be written on an occurrence form – claims made forms are not acceptable except for Professional Liability.

Upon the request of NYeC, the Consultant will submit proper documentation evidencing that the above required policies and limits are in effect. For the Workers Compensation and Employee Liability policy, Consultant, upon request from NYeC, will submit a properly executed Certificate of NYS Workers' Compensation Insurance Coverage (Form C-105.2). For the Disability Benefits policy, Consultant, upon request from NYeC, will submit a "Certificate of Insurance Coverage: Disability and Paid Family Leave Benefits Law" (Form DB-120.1). For all other types of insurance, Consultant will submit a standard ACORD Certificate of Insurance signed by an authorized agent or representative of the insurance companies evidencing that the above required policies and limits are in effect. All policies shall provide that the insurance coverage provided will be primary and noncontributory with any other applicable insurance. No reduction in coverage or cancellation of policies shall be effected without first giving NYeC 30 days' written notice. The policies (except for workers' compensation) shall name NYeC as an additional insured. Consultant and all its insureds shall agree to waive all right of subrogation against NYeC and its officers, employees, and agents for losses arising from work performed by Consultant for NYeC.

If, at any time during the term of this Agreement, Consultant is not in compliance with the requirements of this Section 18, Consultant shall immediately cease work under the Agreement and notify NYeC. Consultant shall not resume work until and until authorized to do so by NYeC. Any delay, time lost, or additional cost incurred as a result of Consultant's non-compliance with the provisions of this Section 18 shall be the sole responsibility of Consultant and shall not give rise to any claim against NYeC.

19. Additional Representations of Consultant

Consultant represents and warrants that:

a. Consultant is a person or a duly organized, validly existing entity and in good standing under the laws of the state of its organization, with full power and authority to execute and deliver this Agreement and to perform the Services and its obligations hereunder. The execution, delivery and performance of this Agreement have been duly authorized by all necessary actions of the Consultant and this Agreement constitutes a valid and binding obligation of Consultant, enforceable against Consultant in accordance with its terms and conditions, and the consent of no other entity or person is required for Consultant to enter into this Agreement and to fully perform the Services and its obligations hereunder.

b. The making of this Agreement by Consultant does not violate any applicable law, rule, or regulation; any contracts with third parties, or any third-party rights in any patent, trademark, copyright, trade secret, or similar right, and Consultant is under no obligation to any third party that would in any matter prevent Consultant from performing the services required hereunder.

c. There is no pending or threatened litigation which may affect the legality, validity or enforceability of this Agreement or any of the Services contemplated herein or Consultant's ability to fully perform the Services and its obligations hereunder.

d. Consultant has all rights necessary to convey to NYeC the unencumbered ownership of the Work Product and Deliverables.

e. Except as set forth in EXHIBIT 4 attached hereto (incorporated herein by reference), which Consultant has executed and delivered to NYeC concurrently with its execution and delivery of this Agreement, it is not presently suspended or debarred or proposed for suspension or debarment by any government agency.

f. None of the representations or warranties made by Consultant in this Agreement (including the Exhibits hereto) and none of the statements contained in any agreement, document, report, invoice or Deliverable furnished by or on behalf of Consultant to NYeC in connection with this Agreement contain any untrue statement of a material fact or omit any material fact necessary to make such statements accurate in light of the circumstances under which they were made.

20. Compliance

Consultant warrants, covenants and agrees that:

a. In the performance of services hereunder, Consultant shall not violate any applicable law, rule, or regulation; any contracts with third parties, or any third-party rights in any patent, trademark, copyright, trade secret, or similar right. Without limitation of the foregoing, Consultant agrees to comply with all federal, state and local statutes, regulations, ordinances and rules (including, without limitation, the requirements of Article 15 of the New York State Executive Law [Human Rights Law], any grant regulations and Executive Orders of the President of the United States applicable to the effort contemplated under this Agreement and HIPAA) as well as any and all NYeC policies and procedures relating, directly or indirectly, to Consultant's performance hereunder, including but not limited to all applicable laws pertaining to equal employment opportunity, insider trading, and procurement integrity.

b. Consultant 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).

c. Consultant, if it will provide any web-based intranet and Internet information and applications development, or programming, will comply with New York State Enterprise IT Policy NYS-P08-005, *Accessibility of Web-Based information and Applications* as such policy may be amended, modified or superseded.

d. Consultant will comply with the United States Foreign Corrupt Practices Act in connection with the Services and the performance of the activities contemplated by this Agreement.

e. Consultant will not directly or indirectly pay, offer, or authorize payment of anything of value (either in the form of compensation, gift, contribution or otherwise) to any person, entity or organization contrary to applicable law, including the laws of the United States, or create an appearance of impropriety.

f. Consultant will not disclose any technical data furnished to it by NYeC or to which it has access hereunder to any foreign nation, firm, or country, including foreign nationals employed by or associated with the receiving party, nor shall any technical data be exported from the United States without first complying with all requirements of the International Traffic in Arms Regulations ("ITAR") or the Export Administration Regulations ("EAR"), including the requirement for obtaining any export license if applicable. The receiving party shall first obtain the written consent of the disclosing party prior to submitting any request for authority to export any such technical data. The receiving party shall indemnify and hold the disclosing party harmless for all claims, demands, damages, costs, fines, penalties, attorney's fees, and all other expenses arising from failure of the receiving party to comply with this clause or the ITAR and EAR.

g. Consultant shall be solely responsible for obtaining all permits, licenses and authorizations necessary or desirable to provide the Services to NYeC.

h. All work shall be performed in a workmanlike and professional manner by Consultant or by officers, employees, subcontractors, vendors, agents or representatives of Consultant having a level of skill in the area commensurate with the requirements of the scope of work to be performed, and such work and all Deliverables and/or work product shall conform to the requirements and specifications of the applicable Statement of Work.

i. The Deliverables and/or work product shall not contain any malicious code, including, without limitation, Trojan horses, worms, viruses or other disabling devices.

j. For a duration of one hundred and twenty (120) days after the applicable acceptance date of the final Deliverable ("Warranty Period"): (i) the Deliverables and/or work product shall perform substantially in accordance with any specifications set forth herein or the applicable Statement of Work, and (ii) the media on which the Deliverables and/or work product are delivered shall be free from material defects in workmanship under normal use; provided, however, that Consultant will have no obligations under this warranty with respect to performance problems or defects arising from any use of a Deliverable other than uses authorized by this Agreement or the applicable Statement of Work. In the event of a breach of this warranty whereby such defect, error or other failure cannot be corrected by Consultant or is not corrected within the applicable cure period set forth herein, in addition to any other rights it may have, NYeC shall have the right (i) to terminate this Agreement pursuant to Section 6.b and receive a full refund of all amounts paid by NYeC hereunder or pursuant to the Payment Schedule in the applicable Statement of Work for Services not properly rendered through the date of termination, or (ii) to cure such defects through the services of a third party selected by NYeC, in which case Consultant shall indemnify NYeC for NYeC's reasonable costs associated with such third party's services.

k. Consultant shall not take any action or conduct in its operations in such manner as to bring public ridicule, contempt, censure or disparagement upon NYeC or the Grant Makers.

21. Publicity

a. Except as provided herein, Consultant will not disclose any information or make any news release, public announcement, advertisement or other form of publicity concerning this Agreement or its efforts in connection therewith without NYeC's prior written consent. Such approvals may be granted or withheld in NYeC's sole discretion. Further, Consultant shall not disclose to any third party the identity of any of the Grant Makers, Program participants or other organizations for whom Consultant is providing or has provided Services, Deliverables and/or work product directly or indirectly.

b. Any internal or external publication, article, pamphlet or other work of authorship produced by Consultant related to or arising out of its performance of its duties and obligations under this Agreement, in whatever form and by whatever medium, whether it be now known or hereafter devised, including without limitation, the Internet, must first be approved in writing by NYeC's Chief Executive Officer.

22. Grant Makers and Grant Clauses

a. Consultant agrees that it will not engage in any communication with the Grant Makers regarding this Agreement, the Grant Contracts or any issues relating to those agreements outside the presence of NYeC without the advance written consent of NYeC.

b. Consultant shall comply with the terms and conditions of the Federal and State Clauses attached hereto as EXHIBIT 3 ("Grant Clauses") and all work done and/or deliverable items shall be produced and performed by Consultant and all of its Consultants strictly in accordance with the provisions of the Grant Clauses. Unless otherwise noted in the body of this Agreement, the provisions of the Grant Clauses are incorporated into this Agreement by reference in their entirety and are applicable to this Agreement as written to the extent necessary to enable NYeC to fulfill its obligations under the Grant Contracts. These incorporated Grant Clauses are in addition to the other clauses, terms, and conditions specifically set forth in this Agreement. For the avoidance of doubt, if a provision of this Agreement is in conflict with a provision of the Grant Clauses, the Grant Clauses provision shall prevail.

c. If a decision is made by a Grant Maker, and such decision pertains to the subject matter of this Agreement and is binding on NYeC, then such decision shall also be binding upon Consultant and its lower-tiered Consultants with respect to such matter. If, as a result of any such decision, NYeC is unable to obtain payment or reimbursement from a Grant Maker, or is required to refund or credit to a Grant Maker, any amount with respect to any item or matter for which NYeC has reimbursed or paid Consultant, Consultant shall, on demand, promptly repay such amount to NYeC. NYeC's maximum liability for any matter connected with or related to this Agreement which was properly the subject of a claim is the amount of NYeC's recovery from the Grant Makers for that claim.

d. Capitalized terms used in this Agreement and not otherwise defined in this Agreement or any Exhibit to this Agreement shall have the meanings ascribed to them in the Grant Clauses.

23. General Terms

a. Survival. The provisions of this Agreement shall survive the expiration or earlier termination of this Agreement, to the extent necessary to give effect to such provisions. Such provisions include, but are not limited to Section 13 (Proprietary and Confidential Information), Section 14 (Ownership of Work Product and

Deliverables), Section 15 (Privacy and Security; Business Associate Subcontractor Agreement), Section 16 (Equal Employment), Section 17 (Indemnification), Section 19 (Additional Representations of Consultant), Section 20 (Compliance), Section 21 (Publicity), Section 22 (Grant Makers and Grant Clauses), and Section 23 (General).

b. Attorneys' Fees. In the event suit is brought to enforce or interpret any part of this Agreement, the prevailing party shall be entitled to recover as an element of the costs of suit, and not as damages, reasonable attorneys' fees to be fixed by the Court.

c. Waiver, Modification and Amendment. No provision of this Agreement may be waived unless in writing, signed by all of the parties hereto. Waiver of any one provision of this Agreement shall not be deemed to be a continuing waiver or a waiver of any other provision. This Agreement may be modified or amended only by a written agreement executed by all of the parties hereto.

d. Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to choice of law principles. The Consultant agrees that it will be subject to the exclusive jurisdiction of the courts of the State of New York in actions that may arise under this Agreement.

e. Dispute Resolution. The parties will attempt in good faith to resolve through good faith negotiations of any dispute, claim or controversy arising out of or relating to this Agreement. If the parties are unable to resolve such dispute, claim or controversy through good faith discussions, higher-level management representatives from each party shall meet and attempt to resolve the dispute. Part . may exercise any right available under the law if the disputes cannot be resolved through good faith negotiations. No provision of this Agreement shall prevent either party from exercising any right available under the law if (i) good faith efforts to resolve the dispute have been unsuccessful, or (ii) interim relief from a court or other adjudicative body is necessary to prevent an irreparable injury. Pending resolution of any dispute, Consultant agrees to proceed diligently with the performance of this Agreement.

f. Assignment; Subcontracting; Successors and Assigns; Third-Party Beneficiaries. Neither this Agreement nor any duties or obligations hereunder shall be assigned, novated, transferred, or subcontracted by Consultant, whether by operation of contract, law or otherwise, except (i) with the express prior written approval of NYeC, which approval may be withheld in the sole and absolute discretion of NYeC or (ii) in connection with a merger, acquisition or sale to a third party of substantially all of the Consultant's assets, sale of stock or otherwise, to which this Agreement relates, and subject, in each case, to such assignee's written agreement to be bound to the terms of this Agreement. Any attempted assignment by Consultant in violation of this prohibition shall be void and of no force and effect. In the event of a prohibited assignment or attempted assignment by Consultant under this clause, the NYeC shall have the right to immediately terminate this Agreement pursuant to Section 6(c). This Agreement shall be binding upon and inure to the benefit of the heirs, successors, assigns, and delegates of NYeC hereto.

g. Notices. All notices under this Agreement will be in writing and will be delivered by personal service, facsimile or registered mail, return receipt requested, or overnight courier to parties indicated below. All notices will be deemed given when received. No objection may be made to the manner of delivery of any notice actually received in writing by an authorized agent of a party.

For NYeC:

NYeC Legal

New York eHealth Collaborative
99 Washington Avenue, Suite 1750
Albany, NY 12210
phone: 646-817-4101Email:
counsel@nyehealth.org

Copy to:

Hope Redden
Executive Assistant
New York eHealth Collaborative
99 Washington Avenue, Suite 1750
Albany, NY 12210
Phone: (518) 299-2096
Email: hredden@nyehealth.org

For Consultant:

Name: $signer_full_name
Title: $signer1_title
Org Name: $company_name
Address:$street_address
$street_address_2
$city0, $state_province
$zip_or_postal_code0

Phone:
$new_company_main_contact_phone
Email: $signer1_email

Copy to:

Name:
Title:
Org Name:
Address:

Phone:
Email:

h. Partial Invalidity. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any manner.

i. Records; Inspection. Consultant shall maintain books, records, and documents in accordance with accounting procedures and practices which sufficiently and properly reflect the services rendered and funds expended in connection with this Agreement. All books, records, documents, or other materials associated with this Agreement shall be subject to reasonable inspection, review, or audit by NYeC and/or the Grant Makers and their designees, during Consultant's usual business hours and upon prior notice. Consultant shall retain all financial and other records pertaining to its work

under this Agreement for the balance of the calendar year in which they were made and for six (6) years after the termination or expiration of this Agreement or the conclusion of any audit pertaining to this Agreement, whichever is later. Grant Makers, the U.S. Department of Health and Human Services, and the agencies' designees, may evaluate through inspection or other means, the quality, appropriateness and timeliness of services performed under this contract. In addition, (i) if this Agreement is completely or partially terminated, Consultant shall make available the records relating to the work terminated until three (3) years after any resulting final termination settlement; and (ii) Consultant shall make available records relating to litigation or the settlement of claims arising under or relating to this Agreement until such appeals, litigation, or claims are finally resolved.

j. Audit. Consultant shall maintain for a period of six (6) years, fully supported and documented electronic and/or paper files corroborating work by Consultant and its Representatives on NYeC projects, compliance with laws, regulations and guidelines applicable to this Agreement and required screening of all Consultant Representatives assigned to NYeC projects, and shall make such files available to NYeC and its agents for periodic audit, during normal working hours, at NYeC request. NYeC will determine the scope and protocol of such audits, and Consultant shall assist and cooperate in all such audits by NYeC or any of its agents.

k. Order of Precedence. This Agreement is composed of the documents set forth below. In the case of any conflict among these documents, conflicts shall be resolved in the order of precedence indicated below::

(i) EXHIBIT 3, Federal and State Clauses ("the Grant Clauses")
(ii) EXHIBIT 2, Certification Regarding Debarment and Suspension
(iii) EXHIBIT 4, Business Associate Subcontractor Agreement
(iv) (The terms and conditions contained in this Master Services Agreement
(v) EXHIBIT 1, Information Security Requirements Addendum
(vi) Applicable Statement of Work(s) duly executed by the Parties

l. Counterparts. This Agreement may be executed in counterparts, each of which when executed will be deemed to be an original, but all of which taken together will constitute one and the same agreement. This Agreement will become effective when all counterparts have been signed by authorized representatives of the parties and have been delivered to the other parties by U.S. mail or other reputable mail or courier service, facsimile or other means of electronic transmission.

m. Entire Agreement. This **Agreement**, together with applicable **Statement(s) of Work** and the following Exhibits contain the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior discussions, representations and understandings, whether oral or written:

Exhibit 1: Information Security Requirements Addendum

Exhibit 2: CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

ATTACHMENT 1

Exhibit 3: FEDERAL AND STATE CLAUSES

Exhibit 4: BUSINESS ASSOCIATE SUBCONTRACTOR AGREEMENT

IN WITNESS WHEREOF, the parties have executed this Agreement through their duly authorized representatives.

New York eHealth Collaborative, Inc.	**Consultant**
By:	By:
Name:	Name:
Title:	Title:
Date:	Date:
	TIN: $company_tax_id

ATTACHMENT 1

EXHIBIT 1

Information Security Requirements Addendum

NYeC ("**NYeC**") and $company_name ("**Consultant**") have entered into an Agreement for services as of _____ (the "**Agreement**") which is incorporated herein by reference, and hereby agree to the following additional terms and conditions which shall be effective as of _____.

1. Definitions

The following terms have the indicated definitions and meanings:

"**Addendum**" or "**Requirements**" means this Information Security Requirements Addendum.

"**Breach**" shall include but is not limited to: (i) any use, loss, destruction, compromise, access, disclosure, collection, retention, storage, transfer and/or other act or omission with regard to Proprietary Data that is unauthorized, invalid or inconsistent with the Agreement, this Addendum and/or any applicable law, regulation or standard and/or otherwise inappropriate; or (ii) any act or omission, that causes non-compliance with these Requirements; or (iii) any "breach of the security of the system" as defined in NYS General Business Law §899-aa.

"**Consultant**" as used in this Addendum means the Consultant identified in the header above.

"Consultant Resources" shall include, but not be limited to, any contractors, subcontractors, consultants, temporary associates or other third parties which Consultant utilizes to Process (as defined herein) Proprietary Data and/or provide Services (as defined herein) to NYeC under the Agreement. Use by Consultant of such Consultant Resources shall be subject to NYeC's prior written approval.

"**Approved Consultant Resources**" shall include, but not be limited to, any contractors, subcontractors, consultants, temporary associates or other third parties which Consultant utilizes, with NYeC's prior written approval, to Process (as defined herein) Proprietary Data and/or provide Services (as defined herein) to NYeC under the Agreement.

"**Consultant Employees**" shall include any employees of Consultant who are utilized by Consultant to Process Proprietary Data and/or provide Services to NYeC under the Agreement.

"**Process**" or "**Processing**" means any action taken by Consultant, Consultant Employees and/or Approved Consultant Resources in relation to Proprietary Data, to include access, collection, use, retention, storage, transfer, disclosure, destruction, and any other operation.

"NYeC Systems" include internal NYeC systems, applications or networks.

ATTACHMENT 1

"**Proprietary Data**" means data or information provided by or on behalf of NYeC, regardless of form or media and regardless of whether it is so designated by NYeC, which includes, but is not limited to:

a) personally identifiable information ("**PII**"), including, but not limited to, an individual's: (i) Social Security number; (ii) date of birth; (iii) home address; (iv) home/personal telephone number; (v) home/personal email address; (vi) user passwords or personal identification numbers ("**PIN**"); (vii) driver's license or other state or federal identification number; (viii) financial account information; (ix) health or medical information, including but not limited to individually identifiable health information and protected health information ("**PHI**") as such terms are defined in 45 CFR §160.103; (x) insurance ID number; or (xi) biometric data;
b) private information as defined in NYS General Business Law §899-aa;
c) NYeC employee data, including, but not limited to: (i) human resources data (e.g., Social Security number, date of birth, performance reviews, medical information, health information, family information, etc.); or (ii) compensation data;
d) NYeC corporate financial data, including, but not limited to, information on NYeC sales, sales projections and corporate strategies, which have not been released to the public;
e) NYeC application or system user ID and passwords;
f) data which is specifically identified by NYeC as "Proprietary Data;" or
g) any of the foregoing even when categorized under a different name (e.g. a person's social security number used as an account number).

"**Privacy Rule**" means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and subparts A and E of Part 164.

"**Secure Facility**" means the physical location(s) where Proprietary Data can be stored or electronically processed. Physical and environmental security controls are implemented to protect the facility housing system resources, the system resources themselves and the facilities used to support their operation.

"**Security Rule**" means the Security Standards and Implementation Specifications at 45 CFR Part 160 and subparts A and C of Part 164.

"**Services**" means the Services provided by Consultant, Consultant Employees and/or Approved Consultant Resources to NYeC pursuant to the Agreement. For purposes of this Addendum, Services shall include, but not be limited to, Processing as defined herein.

2. Rights and License in and to Proprietary Data

Consultant agrees that as between NYeC and Consultant, all rights including any intellectual property rights in and to Proprietary Data shall remain the exclusive property of NYeC, and Consultant has a limited, nonexclusive license to use this data as provided in the Agreement

solely for the purpose of performing its obligations thereunder. Neither the Agreement nor these Requirements provide Consultant any rights, implied or otherwise, to Proprietary Data.

3. Proprietary Data Handling Requirements

When accessing, storing, processing, or transmitting NYeC Proprietary Data or NYeC Systems, Consultant shall:

I. Prohibition of Unauthorized Use or Disclosure – Consultant agrees to hold Proprietary Data in strict confidence. Consultant shall not use or disclose Proprietary Data received from or on behalf of NYeC except as permitted by the Agreement or this Addendum, as required by law, or otherwise authorized in writing by NYeC.

II. General Security

a) process Proprietary Data only in accordance the terms of the applicable agreement between NYeC and Consultant, including, without limitation, these Requirements.

b) Provide evidence of current (within the past 12 months) external security audit such as ISO 27001, SOC 2 Type 2 CMMC, PCI DSS ROC, HITRUST or similar.

c) maintain and utilize a reasonable privacy and security training program applicable to all Consultant Employees and Approved Consultant Resources that includes, without limitation:
   i. training prior to the commencement of the Services and at least annually thereafter;
   ii. training on the roles and responsibilities of Consultant Employees and Approved Consultant Resources with respect to the security and privacy of Proprietary Data, including incident response training;
   iii. documentation of such training, including content and attendance, which shall be provided to NYeC upon request; and
   iv. providing refresher training from time to time and as appropriate, or as part of discipline/sanctions, for Consultant Employees and Approved Consultant Resources who are not compliant with this Addendum.

d) have in place written confidentiality agreements or obligations with all Consultant Employees and Approved Consultant Resources that are at least as restrictive as those in the Agreement and this Addendum.

e) protect against any anticipated threats or hazards to the security or integrity of Proprietary Data, including, without limitation:
   i. reasonable efforts, through the use of industry standard virus and malware protection software and other customary procedures, to avoid introducing or permitting the introduction of any virus into the NYeC environment; and
   ii. reasonable efforts to regularly check for and delete viruses and malware in the Consultant systems used by Consultant to provide the Services by way of standard industry virus and malware detection tools.

f) protect against unauthorized access to or disclosure or use of Proprietary Data which could result in substantial harm or inconvenience to NYeC, including, without limitation:
   i. implementing administrative, technical and physical security controls to limit access by Consultant Employees and Approved Consultant Resources and NYeC authorized subcontractors to only the minimum amount of Proprietary Data needed to provide the Services in the Agreement

g) implement and maintain security policies, procedures, and programs that meet or exceed National Institute of Standards and Technology (NIST) 800-53 publication, Security and Privacy Controls for Federal Information Systems and Organizations ("NIST Security Standard") and any successor standards thereto.

h) implement business continuity and disaster recovery plans necessary to ensure systems, services, and information are not unavailable for a period in excess of twenty-four (24) hours.

i) implement data breach and incident response policies and procedures.

j) take prompt corrective action(s) to remedy a violation of (and to prevent future violation of) any of these Requirements.

III. Breaches

a) within one business day of a Breach involving NYeC Proprietary Data being suspected and/or confirmed, notify NYeC via email as follows:
   a. Contact the primary contract point of contact; and
   b. NYeC's information security team at infosec@nyehealth.org; and operationscenter@nyehealth.org

b) take prompt corrective action(s) to remedy a Breach and to prevent future Breach.

c) take prompt corrective action(s) to remediate any vulnerabilities or security concerns in accordance with Consultant's policies and procedures and this Addendum.

d) implement corrective action(s) in a timeframe commensurate with the risk or as agreed upon with NYeC.

e) cooperate fully with NYeC in facilitating investigation and remediation of a Breach.

f) not inform any third party of any Breach except as specifically required by applicable law, without first obtaining NYeC's prior written consent.

g) promptly notify Consultant's primary NYeC business contact of any complaint received related to processing of Proprietary Data.

IV. Where NYeC has provided written authorization for the storage/processing/transmission of NYeC Proprietary Data, Consultant shall:

a) provide for daily back-up of NYeC Proprietary Data and archival of such NYeC Proprietary Data at a secure facility

b) encrypt all Consultant storage devices and networks utilizing industry standard encryption techniques
c) require all Consultant Resources to use only Consultant owned and managed devices to store/process/transmit NYeC Proprietary Data
d) prohibit storage to portable computing devices, e.g., USB drives, cameras and camera phones, and any other portable device that would allow the capturing, printing or storing of NYeC Proprietary Data
e) establish written procedures for the disposal of electronic storage devices and information, which include the destruction and sanitization of all NYeC Proprietary Data, compliant with NIST 800-88, or a NAID certified 4th party
f) provide industry standard firewalls, both network and device based, that regulate all data entering Consultant's internal data network from any external source, and which will enforce secure connections between internal and external systems and will permit only specific types of data to pass through
g) prohibit the use of NYeC Proprietary Data in Consultant non-production environments
h) implement audit controls that record and monitor systems activity continuously, including logging of who has accessed NYeC Proprietary Data

V. Consultant Provided Software and/or Code
a) not knowingly insert or knowingly allow the insertion into the software of any code which would have the effect of wrongfully disabling or otherwise wrongfully shutting down all or any portion of the Services.
b) Train Consultant Employees and Approved Consultant Resources in proper techniques for developing secure applications.
c) upon discovery of software and system vulnerabilities, provide software patches to remediate vulnerabilities, based on a severity rating mutually agreed upon by the parties, within seven (7) calendar days for High/Critical vulnerabilities, fifteen (15) days for Medium vulnerabilities, and thirty (30) days for Low vulnerabilities.
d) perform application security analysis and testing (also called "verification") according to the verification requirements of an agreed-upon standard ((such as the OWASP Application Security Verification Standard (ASVS) as described at https://owasp.org/www-project-application-security-verification-standard). Consultant shall document verification findings according to the reporting requirements of the standard. Consultant shall provide the verification findings to NYeC, at a minimum, annually.
e) where the Services involve the provision of code to be used for NYeC's website, conduct web application security scanning prior to production. If the results of the web application scanning identify any security issues, NYeC reserves the right to require Consultant to correct those issues deemed critical (by NYeC's judgement) by

changing the code at no additional cost to NYeC. The timeline for the remediation of such issues will be negotiated by NYeC and Consultant, but will not exceed a 60-day remediation period.

4. Consultant Personnel Requirements

Consultant shall ensure that, consistent with all applicable legal requirements (including but not limited to NYS Human Rights Law) a background check is performed on all Consultant Employees and Approved Consultant Resources prior to hiring or otherwise engaging such Consultant Employees and Approved Consultant Resources if they will have access to Proprietary Data that includes, at a minimum, the following:

a) verification of legal authority to work in the United States;
b) review of an individual's currently pending arrests or criminal accusations, and any record of criminal conviction history in all counties in which the individual resided or worked for more than 30 days within the past seven years to ensure personnel have not been convicted of (i) a felony offense within the past seven (7) years related to violent crimes, property offense, substance abuse, or fraud; or (ii) any misdemeanor related to violent crimes, property offense, substance abuse, or fraud. Criminal conviction history checks include a review of all federal, state and local criminal conviction records; and
c) verification that no personnel are listed on the Office of Inspector General (OIG) sanction and disqualification list.

For purposes of these guidelines, the term "Criminal Conviction" includes probation, deferred adjudication and no contest pleas.

5. Connectivity Requirements

Where Consultant is permitted to access any internal NYeC systems, applications, or networks (collectively "**NYeC Systems**"), Consultant shall:

a) only connect to NYeC Systems through the manner and means authorized by NYeC.
b) not connect to, access, attempt to access, or use any NYeC Systems without the prior written authorization of NYeC.
c) notify NYeC when Consultant Employees or Approved Consultant Resources with access to NYeC Systems has left the Consultant or Approved Consultant Resource, or no longer has need to access NYeC Systems.
d) not use any NYeC System in any way that is illegal, abusive or creates a security risk or vulnerability.
e) Consultant Employees or Approved Consultant Resources and third-party users shall be informed that they may not, under any circumstances, attempt to prove a suspected weakness in a system or service.

6. Off-Shore Processing

No NYeC Proprietary Data, including PHI and PII, may be transmitted, accessed or stored outside of the United States, including storage via server storage, backup, printing, photography, copy, paste or similar functions.

Consultant shall not use a third-party subcontractor or vendor to provide any Services under the Agreement, without NYeC's prior written consent.

7. Certification and Compliance Requirements

These Requirements shall apply to all Proprietary Data which is: (i) Processed by Consultant, (ii) provided to Consultant by or on behalf of NYeC, or (iii) learned, accessed or otherwise used by Consultant during or in connection with the performance of Services under the Agreement, or (iv) stored by Consultant

Further, Consultant shall provide documentary evidence to NYeC to show compliance with the applicable Requirements, upon request of NYeC. Documentary evidence may include, but is not limited to, summaries of the Consultant's applicable security policies and standards, and/or written certifications of Proprietary Data destruction.

8. Compliance with Business Associate Agreement (OR Business Associate Subcontractor Agreement)

In the event the Services result in Consultant becoming a Business Associate, as defined in 45 CFR §160.103, or a subcontractor or Business Associate of a Business Associate, Consultant shall be in compliance with the applicable requirements of (i) the Privacy Rule, including but not limited to implementation of appropriate safeguards to protect the privacy and confidentiality of any PII in the possession of Consultant, Consultant Employees and/or Approved Consultant Resources; (ii) the Security Rule, including but not limited to the implementation of appropriate administrative, technical and physical measures to ensure the confidentiality, integrity and availability of any electronic PII and to protect against reasonably anticipated threats, hazards and unauthorized uses or disclosures of any electronic PII in accordance with the standards and implementation specifications under the Security Rule; and (iii) any applicable Business Associate Agreement.

Consultant shall be responsible under this Addendum for any failure of Consultant, Consultant Employees and/or Approved Consultant Resources to comply with the terms of any applicable Business Associate Agreement or the laws referenced therein applicable to Consultant, Consultant Employees and Approved Consultant Resources in the same manner and to the same extent it would be responsible for any failure to comply with its other obligations under this Addendum.

9. Third Party Compliance

Consultant shall be solely responsible and liable for ensuring that all Approved Consultant Resources who Processes NYeC Proprietary Data as part of Consultant's performance under the Agreement fully comply with the provisions of this Agreement, including but not limited to Section 11, Audit Rights.

10. Non-Compliance

Consultant's failure to comply with any Requirement in this Addendum shall constitute a material breach of the Agreement(s) with NYeC. Without limiting any other right or remedy that NYeC may have, NYeC reserves the right to terminate, for default or breach, the Agreement as a result of such non-compliance in accordance with the terms of the Agreement.

11. Audit Rights

To the extent that Consultant stores or maintains Proprietary Data, Consultant shall, upon reasonable notice, allow its data processing facilities, systems, procedures and documentation to be inspected by NYeC or designee(s) thereof, to assess compliance with these Requirements, any applicable law, and the Agreement between NYeC and Consultant. Consultant shall reasonably cooperate with such audit requests by providing access to personnel, physical premises, documentation, and infrastructure which Consultant uses to perform its obligations under the Agreement.

In the event that any NYeC Proprietary Data is processed or available through a Consultant website, Consultant shall conduct annual penetration tests and vulnerability scans. Within thirty (30) days of the completion of such tests and scans, Consultant must provide the results of such testing and, where deficiencies have been identified, corrective action plans to NYeC upon request.

12. Delegation by NYeC

NYeC may delegate any right granted to NYeC under these Requirements. Consultant shall provide such access, information, data, and cooperation to such designee as Consultant is required to provide NYeC under these Requirements.

13. Survival of Requirements

These Requirements shall remain in effect so long as Consultant has any NYeC Proprietary Data, regardless of any termination, amendment or executions of other agreements, and further shall remain in effect until Consultant has certified to the satisfaction of NYeC that all Proprietary Data held by any Consultant Resources has been destroyed or returned to NYeC, in accordance with these Requirements. Where retention of Proprietary Data is required by law, these Requirements shall remain in effect for the period required by applicable law, after which time, Consultant shall certify to the satisfaction of NYeC that all Proprietary Data held by any

ATTACHMENT 1

Consultant Resources has been securely destroyed or returned to NYeC, in accordance with these Requirements.

14. Indemnity

Notwithstanding any provision to the contrary in the Agreement, Consultant shall defend and hold NYeC harmless from all claims, liabilities, damages, or judgements involving a third party, including NYeC's costs and attorney fees, which arise as a result the failure of any Consultant Resources to meet any of its obligations under this Addendum.

15. Amendments

Any and all proposed or actual changes to this Addendum, including, but not limited to, any permitted exceptions to the Requirements herein must be made in writing pursuant to the Agreement.

IN WITNESS WHEREOF, the Parties have each caused these Requirements to be signed and delivered by its duly authorized officer, all as of the date first set forth above.

☐ None of the requirements in this document apply

☐ All requirements in this document apply

☐ All of the requirements in this document apply, with the *exception* of:

Section 3, Proprietary Data Handling Requirements

- ☐ Storing/Transmitting NYeC Confidential Information
- ☐ Provided Software

☐ Section 5, Connectivity Requirements

NYeC	**CONSULTANT**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

ATTACHMENT 1

EXHIBIT 2

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

Regulations of the Department of Health and Human Services, located at Part 376 of Title 2 of the Code of Federal Regulations (CFR), implement Executive Orders 12549 and 12689 concerning debarment and suspension of participants in federal programs and activities. Executive Order 12549 provides that, to the extent permitted by law, Executive Departments and agencies shall participate in a government-wide system for non-procurement debarment and suspension. Executive Order 12689 extends the debarment and suspension policy to procurement activities of the federal government. A person who is debarred or suspended by a federal agency is excluded from federal financial and non-financial assistance and benefits under federal programs and activities, both directly (primary covered transaction) and indirectly (lower tier covered transactions). Debarment or suspension by one federal agency has government-wide effect.

Pursuant to the above-cited regulations, NYeC may not knowingly do business with a person who is debarred, suspended, proposed for debarment, or subject to other government-wide exclusion (including any exclusion from Medicare and State health care program participation on or after August 25, 1995).

By signing this Contract or submitting a proposal, the prospective lower tier participant is providing the certification set out below:

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS

a. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to the other remedies available, the Federal Government, New York State or the New York State Department of Health may pursue available remedies, including suspension and/or debarment.

b. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

c. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this Section, are defined in 2 CFR Part 180, as supplemented by 2 CFR Part 376.

d. The prospective lower tier participant agrees by signing this contract or submitting a proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 2 CFR Part 180, as supplemented by 2 CFR Part 376, or 48 CFR Part 9, Subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the New York State Department of Health.

e. The prospective lower tier participant further agrees by signing this contract or proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary

Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions.

f. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 2 CFR Part 180, as supplemented by 2 CFR Part 376, or 48 CFR Part 9, Subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant is strongly encouraged to check the List of Parties Excluded from Federal Procurement and Non-procurement Programs in the System for Award Management.

g. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this Section.

h. Except for transactions authorized under paragraph (d) of this certification, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 2 CFR Part 180 or 48 CFR Part 9, Subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available, the Federal Government, New York State or the New York State Department of Health may pursue available remedies, including suspension and/or debarment.

i. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

    i. The prospective lower tier participant certifies, by signing this Contract or submitting a proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal agency.

    ii. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

By my Signature below, I certify that I am authorized to sign this Certification on behalf of my organization.

$company_name $company_tax_id
Business Name (s) and TAX ID

_____
Name and Title

_____
Signature

_____
Date

EXHIBIT 3

(Pages 36 - 55 of this Exhibit contains required Federal Clauses. Page 56 through and commencing on page 56 of 76, 2) 'Appendix A" " STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS." New York State Clauses.

FEDERAL AND STATE CLAUSES

I. FEDERAL CLAUSES

Consultant shall comply with all federal and state laws, regulations, and federal and state executive orders (EO). The terms and conditions provided in this Exhibit 3 shall be incorporated by reference as applicable. In the event of any conflict among the clauses applicable to this Exhibit 3 or among any other terms and conditions of this Agreement, including those not applicable solely to federal grants and/or contracts, the most stringent clause will apply.

Consultant agrees to flow down all clauses herein, as applicable, to lower-tier subcontractors. For the purposes of such flow-down clauses, references to "NYeC" shall refer to Consultant, "Consultant" shall refer to lower tier subcontractors, and "Agreement" shall refer to lower tier subcontracts.

A. CLAUSES APPLICABLE TO AGREEMENTS INVOLVING FUNDS FROM A FEDERAL GRANT OR COOPERATIVE AGREEMENT

If this Agreement involves the use of funds from a Federal government grant or cooperative agreement, or funds from a subcontract at any tier relating to a Federal government grant or cooperative agreement, the following clauses from 2 C.F.R. part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ("Uniform Guidance"), are incorporated into and form a part of the terms and conditions of this Agreement.

1. Material Terms of Lower-Tier Subcontracts. Contracts with lower-tier subcontractors for more than the simplified acquisition threshold (currently set at $$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council [Councils] as authorized by 41 U.S.C. 1908), must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

2. Termination of Lower-Tier Subcontracts. Contracts with lower-tier subcontractors in excess of $$10,000 must address termination for cause and for convenience by Consultant including the manner by which it will be effected and the basis for settlement.

3. Equal Employment Opportunity. Except as otherwise provided under 41 C.F.R. part 60, to the extent this Agreement or an lower-tier subcontract meets the definition of "federally assisted construction contract" in 41 C.F.R. part 60-1.3, Consultant or its subcontractors agree to comply with the equal opportunity clause provided under 41 C.F.R. 60-1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 FR 12319, 12935, 3 C.F.R. 1964-1965 Comp., p. 339) as amended by Executive Order 11375 amending Executive Order

11246 Relating to Equal Employment Opportunity, and implementing regulations at 41 C.F.R. part 60.

4. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). If the Agreement is in excess of $$2,000 and pertains to construction or repair, and further, if required by Federal program legislation, Consultant shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. part 5). In accordance with the statute, Consultant is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Consultant must pay wages not less than once a week. The Consultant must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation for applicable lower-tier subcontractors. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The Consultant entity must report all suspected or reported violations to HHS and NYeC.

5. Copeland "Anti-Kickback" Act (40 U.S.C. 3145). If the Agreement is in excess of $$2,000 and pertains to construction or repair, Consultant shall comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 C.F.R. part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Copeland "Anti-Kickback" Act provides in part that Consultant shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which it is otherwise entitled. Consultant must report all suspected or reported violations HHS and NYeC.

6. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). If the Agreement is in excess of $$100,000 and involves the employment of mechanics or laborers must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. part 5). Under 40 U.S.C. 3702 of the Act, Consultant must compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

7. Rights to Inventions Made Under a Contract or Agreement. If the Agreement is for the performance of experimental, developmental, or research work, in connection with a "funding agreement" under 37 C.F.R. 401.2 (a), Consultant shall provide for the rights of the Federal Government and NYeC in any resulting invention in accordance with 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and comply with the requirements of 37 C.F.R. part 401 and any implementing regulations issued by the awarding agency.

8. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. If the Agreement is in excess of $$150,000, Consultant

must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to HHS, the Regional Office of the Environmental Protection Agency (EPA), and NYeC.

9. Debarment and Suspension. Consultant represents and warrants that it is not listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. part 180 that implement Executive Orders 12549 (3 C.F.R. part 1986 Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Further, Consultant must comply with 2 C.F.R. part 180, subpart C and 2 C.F.R. part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier subcontract. Consultant shall have an ongoing duty during the term of this Agreement to disclose to NYeC any occurrence that would prevent Consultant from making certifying compliance with the requirements contained herein on an ongoing basis. Such disclosure shall be made in writing to NYeC within five (5) business days of when Consultant discovers or reasonably believes there is a likelihood of such occurrence.

10. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). If the Agreement is for $$100,000 or more, Consultant and its subcontractors shall file the certification required by 31 U.S.C. 1352 and associated regulations. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to NYeC.

By executing the Agreement, Consultant certifies, to the best of his, her or its knowledge and belief, that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form–LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $$10,000 and not more than $$100,000 for each such failure.

11. Procurement of Recovered Materials (2 C.F.R. part 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. If applicable, Consultant shall comply with the requirements of section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

12. Prohibition on certain telecommunications and video surveillance services or equipment. Consultant shall comply with 2 C.F.R. 200.216 and is thereby prohibited from obligating or expending funds paid under this Agreement to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

13. Domestic preferences for procurements. Consultant shall comply with 2 C.F.R. 200.322. As appropriate and to the extent consistent with law, the Consultant should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). For the purposes of this section, (i) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; and (ii) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

B. CLAUSES APPLICABLE TO AGREEMENTS INVOLVING FUNDS FROM A FEDERAL GRANT OR COOPERATIVE AGREEMENT FROM CMS

If this Agreement involves the use of funds from a Federal government grant or cooperative agreement, or funds from a subcontract at any tier relating to a Federal government grant or cooperative agreement, involving Centers for Medicare & Medicaid Services ("CMS"), the following additional provisions shall apply:

14. Compliance with CMS Uniform Guidance. If this Agreement involves the use of funds from a Federal government grant or cooperative agreement, or funds from a subcontract at any tier relating to a Federal government grant or cooperative agreement, involving Centers for Medicare & Medicaid Services, Consultant shall comply with 45 C.F.R. part 75.

15. Compliance with CMS Requirements. Consultant shall comply with all procurement requirements, laws, and regulations referenced, and required of NYeC to flow down to Consultant, in the then-current Centers for Medicare & Medicaid Services Standard Grant/Cooperative Agreement Terms and Conditions. All such terms may be found at: https://www.cms.gov/About-CMS/Contracting-With-CMS/ContractingGeneralInformation/Grant-Information/Grants-Resource-Library.

16. Mandatory Disclosure of Fraud or Misconduct. As is stated under 45 CFR §75.113, Contractor must disclose, in a timely manner, in writing to NYeC all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in §75.371, including suspension or debarment. (See also 2 CFR parts 180 and 376, and 31 U.S.C. 3321). The HHS Office of the Inspector General (OIG) maintains a toll-free number (1-800-HHS-TIPS [1-800-447-8477]) for receiving information concerning fraud, waste, or abuse under grants and cooperative agreements. Information also may be submitted online at https://oig.hhs.gov/fraud/report-fraud/index.asp or by mail to Office of the Inspector General, Department of Health and Human Services, and Attn: OIG HOTLINE Operations, P.O. Box 23489, Washington, DC 20026.

C. ADDITIONAL CLAUSES INCORPORATED BY REFERENCE

17. Electronic Healthcare Records. Contractor understands and will comply with 42 C.F.R part 495.

18. Cost Allowability. To the extent this Agreement is a cost reimbursement contract directly or indirectly relating to a federal award or contract, Consultant shall only charge costs that are allowable under the cost principles specified in 45 C.F.R. Part 75, Subpart E, 2 C.F.R. Part 200, Subpart E, or 48 C.F.R. Part 31, as applicable, to Consultant's entity and as supplemented or further specified by any federal award or contract award relating to this Agreement."

19. Recordkeeping. Consultant shall maintain financial records, supporting documents, statistical records and all other records pertinent to the Federal award in accordance with Generally Accepted Accounting Principles. Accounting records that are supported by documentation shall at a minimum be adequate to show all costs incurred under the Federal award, receipt, and use of goods and services acquired under the Federal award, the costs of the

program supplied from other sources, and the overall progress of the Agreement. Consultant shall include a provision to this effect in connection with any agreements with sub-tier subcontractors. This provision shall apply until six years after final payment under the Agreement.

20. Access to Records. NYeC, any federal agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have immediate and full access to any books, documents, papers, and records of the contractor which are directly pertinent to this Agreement the purpose of making audits, examination, excerpts and transcriptions. Consultant shall include a provision to this effect in connection with any agreements with sub-tier subcontractors. This provision shall apply until six years after final payment under the Agreement.

II. STATE CLAUSES

21. Non-Discrimination. Contractor acknowledges and agrees, whether or not required by Article 15 of the New York State Executive Law (also known as the Human Rights Law) or any other State or Federal statutory or constitutional non-discrimination or civil rights provisions, including but not limited to the Americans with Disabilities Act, that Contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex (including gender identity or expression), national origin, sexual orientation, age, disability, pregnancy-related condition, military or veteran status, predisposing genetic characteristics, marital or familial status, domestic violence victim status, individual's relationship or association with a member of a protected category or any other basis protected by State and/or Federal law. Furthermore, in accordance with Section 220-e of the New York State 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 contact is performed within the State of New York, Contractor agrees that neither it nor its authorized subcontractors, if any, shall, by reason of race, color, creed, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, pregnancy-related condition, military or veteran status, predisposing genetic characteristics, marital or familial status, domestic violence victim status, individual's relationship or association with a member of a protected category or any other basis protected by applicable State and/or Federal law: (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 Agreement. Contractor is subject to Section 220-e or Section 239 of the New York State Labor Law for work performed under this Agreement. Pursuant thereto, Contractor is subject to fines of $$50.00 per person per day for any violation of this provision, which may be deducted from any amounts payable under this Agreement, as well as possible termination of this Agreement and forfeiture of all moneys due hereunder for a second or subsequent violation.

22. Equal Employment Opportunity. Contractor and any subcontractors shall undertake or continue existing Equal Employment Opportunity ("EEO") programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these

purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

Contractor and any subcontractors shall have an EEO policy statement that includes the following language:

A. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its workforce.

B. The Contractor and any subcontractors shall state in all solicitations or advertisements for employees that, in the performance of this Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

C. The Contractor and any subcontractors 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 rase, 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.

The Contractor shall submit a Workforce Utilization Report, and shall require each of its subcontractors to submit a Workforce Utilization Report, in such form as shall be required by NYeC on a quarterly basis during the term of the Contract.

Separate forms shall be completed by the Contractor and any subcontractors.

Pursuant to New York State Executive Order #162 ("Ensuring Pay Equity by State Contracts"), Contractor and any subcontractors are also required to report the gross wages paid to each of their employees for the work performed by such employees on the contract on a quarterly basis.

23. Public Officers Law. Contractors, consultants, vendors, and subcontractors may hire former employees of the State. However, for informational purposes, in accordance with New York Public Officers Law, former employees of the State Agency or Authority may neither appear nor practice before the State Agency or Authority, nor receive compensation for services rendered on a matter before the State Agency or Authority, for a period of two years following their separation from State Agency or Authority service. In addition, former State Agency or Authority employees are subject to a "lifetime bar" from appearing before the State Agency or Authority or receiving compensation for services regarding any transaction in which they personally participated or which was under their active consideration during their tenure with the State Agency or Authority.

24. Ethics Requirements. The Contractor and its subcontractors shall not engage any person who is, or has been at any time, in the employ of the NYS Department of Health to perform services in violation of the provisions of the New York Public Officers Law, other laws applicable to the service of State employees, and the rules, regulations, opinions, guidelines or policies promulgated or issued by the New York State Joint Commission on Public Ethics, or its predecessors (collectively, the "Ethics Requirements"). The Contractor certifies that all of its employees and those of its subcontractors who are former employees of the NYS Department of Health and who are assigned to perform services under this Contract shall be assigned in accordance with all Ethics Requirements. During the Term, no person who is employed by the Contractor or its subcontractors and who is disqualified from providing services under this Contract pursuant to any Ethics Requirements may share in any net revenues of the Contractor or its subcontractors derived from this Contract. The Contractor shall identify and provide NYeC with notice of those employees of the Contractor and its subcontractors who are former employees of the NYS Department of Health that will be assigned to perform services under this Agreement, and make sure that such employees comply with all applicable laws and prohibitions. NYeC may request that the Contractor provide whatever information the State deems appropriate about each such person's engagement, work cooperatively with NYeC to solicit advice from the New York State Joint Commission on Public Ethics, and, if deemed appropriate by NYeC, instruct any such person to seek the opinion of the New York State Joint Commission on Public Ethics. NYeC shall have the right to withdraw or withhold approval of any subcontractor if utilizing such subcontractor for any work performed hereunder would be in conflict with any of the Ethics Requirements. NYeC shall have the right to terminate this Agreement at any time if any work performed hereunder is in conflict with any of the Ethics Requirements.

25. Subcontracting

A. The Contractor agrees not to subcontract any of its services, unless indicated otherwise in the applicable Statement of Work, without the prior written approval of NYeC. Approval shall not be unreasonably withheld upon receipt of written request to subcontract.

B. The Contractor may arrange for a portion(s) of its responsibilities under this Agreement to be subcontracted to qualified, responsible subcontractors, subject to the prior written approval of NYeC. If the Contractor determines to subcontract a portion of the services, the subcontractors must be clearly identified and the nature and extent of its involvement in and/or proposed performance under this Agreement must be fully explained by the Contractor to the NYeC. As part of this explanation, the subcontractor must submit to NYeC a completed Subcontractor Assurance of No Conflict of Interest or Detrimental Effect form (Exhibit B to this Exhibit 3), as required by the Contractor prior to execution of this Agreement.

C. The Contractor retains ultimate responsibility for all services performed under the Agreement.

D. All subcontracts shall be in writing and shall contain provisions which are functionally identical to, and consistent with, the provisions of this Agreement including, but not limited to, the body of this Agreement and Appendix A to this Exhibit 3 – Standard

Clauses for New York State Contracts. All subcontracts between the Contractor and subcontractors shall expressly name the State as the sole intended third party beneficiary of such subcontract. NYeC reserves the right to review and approve or reject any subcontract, as well as any amendment to said subcontract(s), and this right shall not make the State or NYeC a party to any subcontract or create any right, claim, or interest in the subcontractor or proposed subcontractor against the State or NYeC.

E. NYeC reserves the right, at any time during the term of the Agreement, to verify that the written subcontract between the Contractor and subcontractors is in compliance with all of the provisions of this Section and any subcontract provisions contained in this Agreement.

F. The Contractor shall give NYeC immediate notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract with a subcontractor or which may affect the performance of the Contractor's duties under the Agreement. Any subcontract shall not relieve the Contractor in any way of any responsibility, duty and/or obligation of the Agreement.

G. If at any time during performance under this Agreement total compensation to a subcontractor exceeds or is expected to exceed $$100,000, that subcontractor shall be required to submit and certify a Vendor Responsibility Questionnaire.

26. Standard Clauses for New York State Contracts. Contractor shall comply with Attachment A, hereto, Standard Clauses for New York State Contracts.

27. Iran Divestment Act. Contractor hereby certifies, in accordance with New York State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at https://ogs.ny.gov/system/files/documents/2020/10/irandivestmentlistofentities.pdf .

Contractor further certifies that it will not utilize on this Agreement any subcontractor that is identifies on the Prohibited Entities List. Contractor agrees that should the Agreement be renewed or extended, it must provide the same certification at the time the Agreement is renewed or extended.

NYeC reserves the right to take all appropriate actions and pursue all available remedies in the event that Contractor is in violation of the above-referenced certifications during the term of the Agreement.

28. NY COMP. CODES R. & RGS. Tit.10, § 300. Contractor shall comply with 10 NYCRR Part 300 to the extent applicable.

29. NYS 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 §899-aa; State Technology Law §208). Contractor shall be liable for the costs associated with such breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors.

30. Acknowledgment, Ownership and Confidentiality

A. Any materials, articles, papers, etc., developed by the Contractor under or in the course of performing this Agreement shall contain the following, or similar acknowledgment: "Funded by the New York State Department of Health". Any such materials must be reviewed and approved by NYeC and DOH for conformity with the policies and guidelines for the New York State Department of Health prior to dissemination and/or publication. It is agreed that such review will be conducted in an expeditious manner. Should the review result in any unresolved disagreements regarding content, the Contractor shall be free to publish in scholarly journals along with a disclaimer that the views within the Article or the policies reflected are not necessarily those of the New York State Department of Health or NYeC. The Contractor acknowledges that DOH through NYeC reserves the right to disallow funding for any educational materials not approved through its review process.
B. Any publishable or otherwise reproducible material developed under or in the course of performing this Agreement, dealing with any aspect of performance under this Agreement, or of the results and accomplishments attained in such performance, shall be the sole and exclusive property of the New York State, and shall not be published or otherwise disseminated by the Contractor to any other party unless prior written approval is secured from New York State through NYeC or under circumstances as indicated in paragraph a above. Any and all net proceeds obtained by the Contractor resulting from any such publication shall belong to and be paid over to New York State through NYeC. New York State shall have a perpetual royalty-free, non-exclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any such material for governmental purposes.
C. No report, document or other data produced in whole or in part with the funds provided under this Agreement may be copyrighted by the Contractor or any of its employees, nor shall any notice of copyright be registered by the Contractor or any of its employees in connection with any report, document or other data developed pursuant to this Agreement.
D. All reports, data sheets, documents, etc. generated under this contract shall be the sole and exclusive property of the DOH. Upon completion or termination of this Agreement the Contractor shall deliver to DOH, through NYeC, upon its demand all copies of materials relating to or pertaining to this Agreement. The Contractor shall have no right to disclose or use any of such material and documentation for any purpose whatsoever, without the prior written approval of the DOH or its authorized agents.
E. The Contractor, its officers, agents and employees and subcontractors shall treat all information, which is obtained through performance under this Agreement, as confidential information to the extent required by the laws and regulations of the United States and laws and regulations of the State of New York.

31. Technology Provisions; Ownership/Title to Project Deliverables

a. Definitions

(i) For purposes of this clause, "Products" means deliverables furnished under this Contract by or through Contractor, including existing and custom Products, including, but not limited to: a) components of the hardware environment, b) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings), whether printed in hard copy or maintained on diskette, CD, DVD or other electronic media, c) third party software, d) modifications, customizations, custom programs, program listings, programming tools, data, modules, components, e) any properties embodied therein, whether in tangible or intangible form (including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, Source Code, object code), and f) any copyright, trademark, or inventions whether patentable or not.

(ii) For purposes of this clause, "Existing Products" means Products, whether tangible or intangible, owned by Contractor and that exist prior to the commencement of work under the Contract. Contractor bears the burden of proving that a particular product was in existence prior to the commencement of the Project.

(iii) For purposes of this clause, "Custom Products" means Products, whether preliminary, final or otherwise, which are created or developed by Contractor, its Subcontractors, partners, employees or agents for the Department under the Contract.

(iv) For purposes of this clause, "Licensed Products" means Products licensed by the Contractor from an independent software vendor proprietary owner.

b. Title to Project Deliverables

Contractor acknowledges that it is commissioned by the Department to provide or arrange to be provided the Product and the services detailed in the Work Plan. Pursuant to 45 CFR Section 95.617, Contractor shall use its best efforts to provide deliverables under the Contract that will allow the Department to make available to other states for leverage and reuse project work products, documents, and other related materials including system components and code. Unless otherwise specified in writing and agreed upon by the Department, the Department shall have ownership and license rights as follows:

(i) Existing Products:

1. Hardware - Title and ownership of Existing Hardware Product delivered by Contractor under the Contract shall not pass to the Department.

2. Software - Title and ownership to Existing Software Products delivered by Contractor under the Contract, whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with Contractor. Effective upon acceptance, Contractor grants to the Department a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless Contractor advises the Department as part of Contractor's proposal that adaptation

will violate existing agreements or statutes and Contractor demonstrates such to the Department) and distribute all Existing Software Product that is normally commercially distributed on a license basis by the Contractor as necessary to fully effect the general business purposes stated in the Work Plan.

Parties agree that with respect to any subject inventions, the Federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(ii) Custom Products: Effective upon creation of Custom Products, Contractor hereby conveys, assigns and transfers to the Department the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all trademark, copyrights, and inventions whether patentable or not. Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through Contractor, its agents, employees, or Subcontractors. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under the Work Plan, project definition or work order in the course of Contractor's business. The Department hereby grants to Contractor a non-exclusive license, for the term of this Contract and any contract replacing or superseding this Contract and in each case, any renewal thereof, to use, execute, reproduce, display, perform, adapt, and distribute the Custom Products(s) in order to perform its obligations under this Contract or any contract replacing or superseding this Contract or otherwise to use, operate, manage, promote, encourage, and facilitate the SHIN-NY. For other purposes, the Department may negotiate in good faith with the Contractor a commercial, non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt and distribute the Custom Product(s).

The Department may, at its discretion, grant licenses under the Creative Commons License to Custom Products to any party that the Department deems appropriate.

(iii) Licensed Products: Title and ownership to Licensed Products delivered by Contractor under the Contract, whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with the applicable independent software vendor proprietary owner ("ISV"). Effective upon the earlier of the commencement of the Contract or the acceptance by the Contractor of the license to a Licensed Product, such Licensed Product shall be licensed to the Department on the same terms as the license granted to Contractor; provided, however, that Contractor shall use commercially reasonable efforts to obtain for the Department a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless Contractor advises the Department as part of Contractor's proposal that adaptation will violate existing agreements or statutes and Contractor demonstrates such to the Department) and distribute Licensed Product as necessary to fully effect the general business purposes stated in the Work Plan.

c. Software source code escrow

Contractor shall, at the request of the Department, and at Contractor's sole expense, place the source code for any Custom Products under this Contract, any database scripts and any accompanying documentation needed to reconstruct or execute such code in a third-party escrow arrangement with a designated escrow agent who shall be named and identified to the State. The Contractor shall certify to the Department that Contractor has named the state as a beneficiary of the escrow account and that the source code escrow agent has been instructed by Contractor to release to Department the escrowed source code, database scripts and any other accompanying documentation needed to reconstruct or execute such code, at the expiration of the contract term or in the event that the contract is terminated, Contractor files for bankruptcy or becomes insolvent, Contractor misrepresents its products or services, Contractor fails to perform work as agreed upon in this contract and subsequent agreement, Contractor ceases business operations generally or fails to make available maintenance or support services for the then-current version of the licensed product, Contractor transfers any ownership interest in the code to any party not named in this agreement who has not assumed the obligations hereunder, or Contractor transfers all or substantially all of its assets or obligations set forth in this agreement to a third party who has not assumed such obligations.

Source code, as well as any corrections or enhancements to such source code, shall be updated for each new release of the Product and such updating of escrow shall be certified to the State in writing. Contractor shall identify the escrow agent upon commencement of the Contract term and shall certify annually that the escrow remains in effect in compliance with the terms of this provision. The State reserves the right to release any escrowed deliverables to a third party for the purpose of maintaining, supporting, customizing or reverse engineering deliverables in the event the State exercises its rights under this provision.

32. State Grant Contract Information. Effective April 1, 2018, NYeC has entered into a contract with the NYS Department of Health and the New York State Comptroller's Number for the contract is C033555. Effective April 1, 2023, the New York State Comptroller's Number for NYeC's contract with NYS Department of Health is C037763. The Type of Program is "Statewide Health Information Network for New York (SHIN-NY)".

EXHIBIT A

to

EXHIBIT 3 FEDERAL AND STATE CLAUSES

Contractor Assurance of No Conflict of Interest or Detrimental Effect

The CONTRACTOR or Subcontractor (hereinafter referred to as "CONTRACTOR") offering to provide services pursuant to New York State Department of Health Contract #C033555 and/or New York State Department of Health Contract #C037763, as applicable, as a contractor, joint venture contractor, subcontractor, or consultant, attests that its performance of the services outlined in this contract or proposal does not and will not create a conflict of interest with nor position the CONTRACTOR to breach any other contract currently in force with the State of New York.

The CONTRACTOR shall disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated CONTRACTOR, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the CONTRACTOR or former officers and employees of the DEPARTMENT and its Affiliates, in connection with your rendering services enumerated in this Contract. If a conflict does or might exist, please describe how you would eliminate or prevent it. Indicate what procedures will be followed to detect, notify the DEPARTMENT of, and resolve any such conflicts. The DEPARTMENT will review the nature of any relationships and reserves the right to terminate this Contract for any reason, or for cause, if, in the judgment of the DEPARTMENT, a real or potential conflict of interest cannot be cured.

The CONTRACTOR shall disclose whether it, or any of its members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any investigation or disciplinary action by the New York State Joint Commission on Public Ethics or its predecessor State entities (collectively, "Commission"), and if so, a brief description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved. The DEPARTMENT will review the nature of any relationships and reserves the right to terminate this Contract for any reason, or for cause, if, in the judgment of the DEPARTMENT, a real or potential conflict of interest cannot be cured.

Furthermore, the CONTRACTOR attests that it will not act in any manner that is detrimental to any New York State contract on which the CONTRACTOR is rendering services. Specifically, the CONTRACTOR attests that:

1. The fulfillment of obligations by the CONTRACTOR, under this contract, does not violate any existing contracts or agreements between the CONTRACTOR and the State of New York;

2. The fulfillment of obligations by the CONTRACTOR, under this contract, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the CONTRACTOR has with regard to any existing contracts or agreements between the CONTRACTOR and the State of New York;

3. The fulfillment of obligations by the CONTRACTOR, under this contract, does not and will not compromise the CONTRACTOR's ability to carry out its obligations under any existing contracts between the CONTRACTOR and the State of New York;

4. The fulfillment of any other contractual obligations that the CONTRACTOR has with the State of New York will not affect or influence its ability to perform under any contract with the State of New York resulting from this Contract;

5. During the negotiation and execution of this Contract, the CONTRACTOR will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to New York State as a whole including, but not limited to, any action or decision to divert resources from one New York State contract to another;

6. In fulfilling obligations under each of its New York State contracts, including this Contract the CONTRACTOR will act in accordance with the terms of each of its New York State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State of New York as a whole including, but not limited to, any action or decision to divert resources from one New York State contract to another;

7. No former officer or employee of the DEPARTMENT who is now employed by the CONTRACTOR, nor any former officer or employee of the CONTRACTOR who is now employed by the DEPARTMENT, has played a role with regard to the administration of this Contract procurement in a manner that may violate section 73(8)(a) of the Public Officers Law; and

8. The CONTRACTOR has not and shall not offer to any employee, member or director of the DEPARTMENT any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

CONTRACTOR should note that the DEPARTMENT recognizes that conflicts may occur in the future because a CONTRACTOR may have existing or new relationships. The DEPARTMENT will review the nature of any such new relationship and reserves the right to terminate this contract for cause if, in its judgment, a real or potential conflict of interest cannot be cured.

Name: _____

Title: _____

Signature: _____

Date: _____

This form must be signed by an authorized executive or legal representative.

EXHIBIT B

to

EXHIBIT 3 FEDERAL AND STATE CLAUSES

Subcontractor Assurance of No Conflict of Interest or Detrimental Effect

The CONTRACTOR or Subcontractor (hereinafter referred to as "CONTRACTOR") offering to provide services pursuant to New York State Department of Health Contract #C033555 and/or New York State Department of Health Contract #C037763, as applicable, as a contractor, joint venture contractor, subcontractor, or consultant, attests that its performance of the services outlined in this contract or proposal does not and will not create a conflict of interest with nor position the CONTRACTOR to breach any other contract currently in force with the State of New York.

The CONTRACTOR shall disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated CONTRACTOR, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the CONTRACTOR or former officers and employees of the DEPARTMENT and its Affiliates, in connection with your rendering services enumerated in this Contract. If a conflict does or might exist, please describe how you would eliminate or prevent it. Indicate what procedures will be followed to detect, notify the DEPARTMENT of, and resolve any such conflicts. The DEPARTMENT will review the nature of any relationships and reserves the right to terminate this Contract for any reason, or for cause, if, in the judgment of the DEPARTMENT, a real or potential conflict of interest cannot be cured.

The CONTRACTOR shall disclose whether it, or any of its members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any investigation or disciplinary action by the New York State Joint Commission on Public Ethics or its predecessor State entities (collectively, "Commission"), and if so, a brief description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved. The DEPARTMENT will review the nature of any relationships and reserves the right to terminate this Contract for any reason, or for cause, if, in the judgment of the DEPARTMENT, a real or potential conflict of interest cannot be cured.

Furthermore, the CONTRACTOR attests that it will not act in any manner that is detrimental to any New York State contract on which the CONTRACTOR is rendering services. Specifically, the CONTRACTOR attests that:

1. The fulfillment of obligations by the CONTRACTOR, under this contract, does not violate any existing contracts or agreements between the CONTRACTOR and the State of New York;

2. The fulfillment of obligations by the CONTRACTOR, under this contract, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the CONTRACTOR has with regard to any existing contracts or agreements between the CONTRACTOR and the State of New York;

3. The fulfillment of obligations by the CONTRACTOR, under this contract, does not and will not compromise the CONTRACTOR's ability to carry out its obligations under any existing contracts between the CONTRACTOR and the State of New York;

4. The fulfillment of any other contractual obligations that the CONTRACTOR has with the State of New York will not affect or influence its ability to perform under any contract with the State of New York resulting from this Contract;

5. During the negotiation and execution of this Contract, the CONTRACTOR will not

knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to New York State as a whole including, but not limited to, any action or decision to divert resources from one New York State contract to another;

6. In fulfilling obligations under each of its New York State contracts, including this Contract the CONTRACTOR will act in accordance with the terms of each of its New York State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State of New York as a whole including, but not limited to, any action or decision to divert resources from one New York State contract to another;

7. No former officer or employee of the DEPARTMENT who is now employed by the CONTRACTOR, nor any former officer or employee of the CONTRACTOR who is now employed by the DEPARTMENT, has played a role with regard to the administration of this Contract procurement in a manner that may violate section 73(8)(a) of the Public Officers Law; and

8. The CONTRACTOR has not and shall not offer to any employee, member or director of the DEPARTMENT any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

CONTRACTOR should note that the DEPARTMENT recognizes that conflicts may occur in the future because a CONTRACTOR may have existing or new relationships. The DEPARTMENT will review the nature of any such new relationship and reserves the right to terminate this contract for cause if, in its judgment, a real or potential conflict of interest cannot be cured.

Name: _____

Title: _____

Signature: _____

Date: _____

This form must be signed by an authorized executive or legal representative.

ATTACHMENT A

to

EXHIBIT 3 FEDERAL AND STATE CLAUSES

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

JUNE 2023

PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law, if this contract exceeds $$50,000 (or $$75,000 for State University of New York or City University of New York contracts for goods, services, construction and printing, and $$150,000 for State University Health Care Facilities) or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds $$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services, either for itself or its customer agencies by the Office of General Services Business Services Center, is required when such contracts exceed $$85,000. Comptroller's approval of contracts established as centralized contracts through the Office of General Services is required when such contracts exceed $$125,000, and when a purchase order or other procurement transaction issued under such centralized contract exceeds $$200,000.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed,

color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of $50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

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

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

by the State agency, its representatives, or the State Comptroller.

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of $$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal

employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "(a), (b) and (c)" above, in every subcontract over $$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification

for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business and Technology Development
625 Broadway
Albany, New York 12245
Telephone: 518-292-5100

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue 33rd Floor
New York, NY 10017
646-846-7364
email: mwbebusinessdev@esd.ny.gov
https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)–(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than $$1 million:

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

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

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

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

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if

their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 2023, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law §§ 899-aa and 899-bb and State Technology Law § 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 §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.
To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: https://ogs.ny.gov/iran-divestment-act-2012

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the

determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

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

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

EXHIBIT 4

BUSINESS ASSOCIATE SUBCONTRACTOR AGREEMENT

This Business Associate Subcontractor Agreement (the "**BAA**") is entered into as of December 1, 2025 by and between New York eHealth Collaborative, Inc., ("NYeC") a New York not-for-profit corporation with its principal place of business at 99 Washington Avenue, Suite 1750, Albany, New York 12210 ("NYeC") and, _$company_name a [ENTITY TYPE] with its principal place of business at the location set forth on the signature page hereto ("Business Associate" or "Consultant"). NYeC and Vendor may be referred to herein collectively as the "**Parties**" or individually as a "**Party**." The parties have entered into a master services agreement, effective _____ (the "Underlying Agreement") under which Business Associate may use, receive, have access to, or disclose PHI in its performance of the Services (terms as defined below). In connection with Consultant's performance of Services, Consultant is to be provided with, or will have access to Protected Health Information (as defined below) so as to constitute a Business Associate, as defined in 45 C.F.R. §160.103, or a subcontractor of or Business Associate of a Business Associate, Consultant agrees to adhere to the applicable regulations issued pursuant to the Health Insurance Portability and Accountability Act or 1996 ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act ("HITECH") as may be amended from time to time, by complying with the requirements of the Privacy and Security Rules as set forth in this EXHIBIT 4 in connection with the performance of Services.

1. DEFINITIONS.

a) "**Breach**" has the same meaning as the term "Breach" as defined in 45 C.F.R. § 164.402.

b) "**Breach Notification Rule**" means the rules found in 45 C.F.R. Part 160 and Subparts A and D of 45 C.F.R. Part 164, as amended.

c) "**Business Day**" means any day of the week, with the exclusion of: (i) Saturdays and Sundays; (ii) federal holidays; (iii) New York State holidays; (iv) the day after Thanksgiving; and (v) December 24th.

d) "**Data Aggregation Services**" means, with respect to PHI created or received by Subcontractor BA in its capacity as a Subcontractor of Business Associate, the combining of such PHI by Subcontractor BA with the PHI received by Subcontractor BA in its capacity as a business associate of a HIPAA-covered entity or a Subcontractor of another business associate of a HIPAA-covered entity, to permit data analyses that relate to health care operations of the respective covered entities.

e) "**Designated Record Set**" has the same meaning as the term "Designated Record Set" as defined in 45 C.F.R. § 164.501.

f) "**Department"**" means the New York State Department of Health.

g) "**Electronic Protected Health Information**" or "**Electronic PHI**" has the same meaning as the term "electronic protected health information" as defined in 45 C.F.R. § 160.103.

h) "**Individual**" has the same meaning as the term "Individual" as defined in 45 C.F.R. § 160.103 and shall, in accordance with 45 C.F.R. § 164.502(g), include a person who qualifies as a "Personal Representative" in accordance with HIPAA.

i) "**Medicaid Confidential Data**" or "**MCD**" means any information or data received directly or indirectly from the Department about individuals who have applied for or received Medicaid benefits, including Medicaid claims data, names and addresses, diagnoses, medical services, and other personally identifiable information about Medicaid beneficiaries or Medicaid applicants. MCD may include PHI.

j) "**Part 2 Program**" has the same meaning as the term "Part 2 Program" as defined in 42 C.F.R. § 2.11.

k) "**Privacy Rule**" means the rules found in 45 CFR Part 160 and Subparts A and E of 45 C.F.R. of Part 164, as amended.

l) "**Protected Health Information**" or "**PHI**" has the same meaning as the term "Protected Health Information" as defined in 45 C.F.R. § 160.103. "Protected Health Information" includes, without limitation, "Electronic Protected Health Information" as defined above.

m) "**Reportable Event**" means a use or disclosure of PHI received by Subcontractor BA from Business Associate, which Subcontractor BA must report to Business Associate under Section 2(c) of this BA Subcontractor Agreement.

n) "**Required By Law**" has the same meaning as the term "Required by Law" as defined in 45 C.F.R. § 164.103.

o) "**Secretary**" means the Secretary of the Department of Health and Human Services or their designee.

p) "**Security Incident**" has the same meaning as the term "Security Incident" as defined in 45 C.F.R. § 164.304.

q) "**Security Rule**" means the rules found in 45 CFR Part 160 and Subparts A and C of 45 C.F.R. of Part 164, as amended.

r) "**SHIN-NY SOPs**" shall mean the set of standard operating procedures and policies, including technical standards, adopted via the Statewide Collaboration Process, related to operation of the Statewide Health Information Network for New York, or SHIN-NY.

s) "**SHIN-NY participant**" means an individual or entity that meets the definition of "SHIN-NY participant" set forth at 10 N.Y.C.R.R. § 300.1 and any further requirements for qualifying as a "SHIN-NY participant" as set forth in the SHIN-NY SOPs.

t) "**Statewide Collaboration Process**" means an open, transparent process within which stakeholders contribute to recommendations for the Statewide Common Participation Agreement and the SHIN-NY SOPs. The "Statewide Collaboration Process" shall be further defined in the SHIN-NY SOPs.

u) "**Subcontractor**" has the same meaning as the term "Subcontractor" as defined in 45 C.F.R. § 160.103.

v) "**Subcontractor BA**" means Vendor when Vendor is acting as a Subcontractor to a NYeC or a SHIN-NY participant.

w) "**Underlying Contract**" means the Master Services Agreement entered into by and between the parties.

x) "**Unsecured Protected Health Information**" or "**Unsecured PHI**" has the same meaning as the term "Unsecured Protected Health Information" as defined in 45 C.F.R. § 164.402.

y) "**Unsuccessful Security Incident**" means a Security Incident that does not result in unauthorized access, use, disclosure, modification or destruction of PHI including, for example, and not for limitation, pings on Subcontractor or Subcontractor BA's firewall, port scans, attempts to log onto a system or enter a database with an invalid password or username, denial-of-service attacks that do not result in the system being taken off-line, or any combination of the foregoing, so long as no such incident results in unauthorized access, use or disclosure of Electronic PHI.

2. OBLIGATIONS AND ACTIVITIES OF SUBCONTRACTOR BA.

a) Use and Disclosure. Subcontractor BA agrees not to use or disclose PHI other than as permitted or required by the Underlying Contract or this BAA, the SHIN-NY SOPs or as required by law. Subcontractor BA shall comply with the provisions of this BA Subcontractor Agreement relating to the privacy and security of PHI and all present and future provisions of HIPAA that relate to the privacy and security of PHI and that are applicable to Subcontractor BA. Without limiting the foregoing, to the extent Subcontractor BA will carry out one or more of the Business Associate's obligations under the Privacy Rule, Subcontractor BA shall comply with the requirements of the Privacy Rule that apply to the Business Associate in the performance of such obligations.

b) Appropriate Safeguards and Security Requirements. Subcontractor BA agrees to use appropriate safeguards and comply, where applicable, with the Security Rule (with respect to Electronic PHI) to prevent the use or disclosure of PHI other than as provided for by this BAA. Without limiting the generality of the foregoing sentence, Subcontractor BA will:

(i) Implement administrative (45 C.F.R. § 164.308), physical (45 C.F.R. § 164.310), and technical safeguards (45 C.F.R. § 164.312) that reasonably and appropriately protect the confidentiality, integrity and availability of Electronic PHI as required by the Security Rule; and

(ii) Ensure that any Subcontractor to whom Subcontractor BA provides Electronic PHI agrees to implement reasonable and appropriate safeguards to protect Electronic PHI and comply with the requirements of Section 2(a) of this BAA.

c) Reportable Events.

(i) Subcontractor BA shall report to Business Associate (A) any Breach of Business Associate's Unsecured PHI of which it becomes aware; (B) any Security Incident involving PHI received from Business Associate of which it becomes aware; or (C) any other use or disclosure of PHI received from Business Associate not provided for in this BAA of which it becomes aware, provided however, that the Parties agree that this section constitutes notice by Subcontractor BA to Business Associate of the ongoing existence and occurrence of Unsuccessful Security Incidents for which no additional notice or report to Business Associate shall be required.

(ii) Subcontractor BA shall provide Business Associate with notice of the applicable Reportable Event promptly after Subcontractor BA becomes aware of the Reportable Event, and in no event shall Subcontractor BA provide such notice more than eight (8) Business Days after becoming aware of such event, provided that such notice shall be provided sooner if required in order to comply with the applicable Participant BAA with respect to the PHI (but only if Business Associate provides notice to Subcontractor BA of such earlier time frame) or if required by applicable law.

(iii) Any required notice of a Reportable Event shall include, to the extent known, (A) the identification of each Individual whose PHI has been, or is reasonably believed by Subcontractor BA to have been, accessed, acquired or disclosed during such Reportable Event; (B) the date the Reportable Event occurred; (C) any corrective actions Subcontractor BA took or will take with respect to such Reportable Event; and (D) any other relevant information regarding the Reportable Event, including the cause of such Reportable Event. If any such information is not known as of the date by which Subcontractor BA must report the Reportable Event, Subcontractor BA shall promptly provide Business Associate with an updated report containing the necessary information no later than eight (8) Business Days after Subcontractor BA obtains such information.

d) Mitigation. Subcontractor BA agrees to mitigate, to the extent practicable, any harmful effect that is known to Subcontractor BA of a use or disclosure of PHI by Subcontractor BA or its employees, officers, Subcontractors or agents in violation of the requirements of this BAA (including, without limitation, any Security Incident or Breach of Unsecured Protected Health Information).

e) Subcontractors. Subcontractor BA shall ensure that any agent, including any Subcontractor, to whom Subcontractor BA provides PHI received from, or created, maintained, received or transmitted by, Subcontractor BA on behalf of Business Associate agrees in writing to the same restrictions and conditions that apply through this BAA to Subcontractor BA with respect to such information.

f) Access to Designated Record Sets. To the extent that Subcontractor BA possesses or maintains PHI in a Designated Record Set, Subcontractor BA agrees to provide Business Associate with access, at the request of Business Associate, to PHI in a Limited Data Set or a Designated Record Set within seven (7) Business Days after Business Associate requests access to such PHI, provided that such access shall be provided sooner if required in order to comply with applicable Participant BAA with respect to the PHI (but only if Business Associate provides notice to Subcontractor BA of such earlier time frame). Any such access shall be provided in the manner necessary to enable Business Associate to meet applicable requirements under 45 C.F.R. § 164.524.

g) Amendments to Designated Record Sets. To the extent Subcontractor BA possesses or maintains PHI in a Limited Data Set or a Designated Record Set, Subcontractor BA agrees to make any amendment(s) to PHI in a Limited Data Set or a Designated Record Set that Business Associate directs within five (5) Business Days after Business Associate directs Subcontractor BA to make such amendment, provided that such amendment shall be made sooner if required in order to comply with the applicable Participant BAA with respect to the PHI (but only if Business Associate provides notice to Subcontractor BA of such earlier time frame). Any such amendment shall be made in the manner necessary to enable Business Associate to meet applicable requirements under 45 C.F.R. § 164.526.

h) Access to Books and Records. Subcontractor BA agrees to make its internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by Subcontractor BA on behalf of, Business Associate available to the Secretary, in a time and manner designated by the Secretary, for purposes of the Secretary determining Business Associate's compliance with the Privacy Rule.

i) Accountings. Subcontractor BA agrees to document such disclosures of PHI and information related to such disclosures as would be required for Business Associate to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with HIPAA.

j) Requests for Accountings. Subcontractor BA agrees to provide to Business Associate, within eight (8) Business Days of Subcontractor BA's receipt of a request by Business Associate, information collected in accordance with Section 2(i) of this BAA, to permit Business Associate to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with HIPAA, provided that such information shall be provided sooner if required in order to comply with the applicable Participant BAA with respect to the PHI (but only if Business Associate provides notice to Subcontractor BA of such earlier time frame).

k) Requests Directly to Subcontractor BA. If an Individual makes a request for access to a Designated Record Set (Section 2(f)), an amendment(s) to PHI in a Designated Record Set (Section 2(g)), or an accounting (Section 2(j)) directly to Subcontractor BA, Subcontractor BA shall notify Business Associate of the request within five (5) Business Days of Subcontractor BA's receipt of such request. Business Associate will be solely responsible for approving or disapproving any such request for access to the PHI, and Subcontractor BA or its agents or Subcontractors will comply with Business Associate's directions regarding such requests. Notwithstanding the foregoing, Business Associate hereby agrees that Subcontractor BA may provide Individuals with access to their own PHI via a portal or other mechanism to the extent such access occurs in accordance with the requirements of the Underlying Contracts and the SHIN-NY SOPs, in which case no further notice to Business Associate is required.

l) Offshoring. Subcontractor BA shall not receive, process, transfer, handle, store or access PHI received from Business Associate outside of the United States and its territories without the prior express written authorization of Business Associate (as directed or authorized by the applicable SHIN-NY participant) or the applicable SHIN-NY participant.

3. PERMITTED USES AND DISCLOSURES BY SUBCONTRACTOR.

a) Underlying Contract. Subcontractor BA may use or disclose PHI to perform functions, activities or services for, or on behalf of, Business Associate as specified in the Underlying Contract. Subcontractor BA may not use or disclose PHI in a manner that would violate the Privacy Rule if done by Business Associate.

b) Data Aggregation Services. Except as otherwise limited in the Underlying Contract or this BAA, Subcontractor BA may provide Data Aggregation Services as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

c) De-Identified Data Sets. Except as otherwise limited in the Underlying Contract or Subcontractor BA may create de-identified data sets using PHI received from Business Associate provided Subcontractor BA complies with 45 C.F.R. § 164.514, and the SHIN-NY SOPs with respect to the creation of such data set and the use and disclosure of such de-identified data.

d) Use for Administration of Subcontractor BA. Except as otherwise limited in the Underlying Contract or this is BA Subcontractor Agreement, Subcontractor BA may use the PHI for the proper management and administration of Subcontractor BA or to carry out the legal responsibilities of Subcontractor BA, provided such uses are permitted under the Privacy Rule.

e) Disclosure for Administration of Subcontractor BA. Except as otherwise limited in this BAA, Subcontractor BA may disclose PHI for the proper management and administration of Subcontractor BA, provided that (i) any such disclosures are Required by Law, or (ii) Subcontractor BA obtains reasonable assurances from the person to whom the PHI is disclosed that such PHI will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Subcontractor BA of any instances of which it is aware in which the confidentiality of the information has been breached.

4. OBLIGATIONS OF BUSINESS ASSOCIATE.

a) Privacy Notice. Business Associate shall notify Subcontractor BA of any limitation(s) in the notice of privacy practices of SHIN-NY participants that are conveyed to Business Associate in accordance with 45 C.F.R. § 164.520, to the extent that such limitation(s) may affect Subcontractor BA's use or disclosure of PHI.

b) Changes of Permission of Individual. Business Associate shall notify Subcontractor BA of any known changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes affect Subcontractor BA's use or disclosure of PHI.

c) Restrictions on Use or Disclosure. Business Associate shall notify Subcontractor BA of any restriction to the use or disclosure of PHI that SHIN-NY participants have agreed to and conveyed to Business Associate in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Subcontractor BA's use or disclosure of PHI.

d) Permissible Requests by Business Associate. Except as set forth in Section 3 of this BAA, Business Associate shall not request Subcontractor BA to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Business Associate.

5. MEDICAID CONFIDENTIAL DATA.

a) Applicability. If a Party discloses MCD to the other Party, the Parties shall abide by the requirements of Appendix A.

6. COMPLIANCE WITH 42 C.F.R. PART 2

a) Applicability. The provisions of this Section 6 shall apply only with respect to PHI of a SHIN-NY participant that is a Part 2 Program which Business Associate obtains in its capacity as a qualified service organization of a Part 2 Program. In the event Business Associate provides Subcontractor BA with PHI of a SHIN-NY participant that is a Part 2 Program, Business Associate shall provide notice to Subcontractor BA of the applicability of 42 C.F.R. Part 2 to Business Associate in accordance with the requirements of the Underlying Contracts and the SHIN-NY SOPs.

b) Part 2 Acknowledgment. Subcontractor BA acknowledges that, in receiving, storing, processing or otherwise dealing with any information about patients in any alcohol and drug abuse treatment program operated by a SHIN-NY participant that is a Part 2 Program which Business Associate obtains in its capacity as a qualified service organization of a Part 2 Program, it is fully bound by the provisions of the federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

c) Judicial Proceedings. Subcontractor BA agrees to resist in judicial proceedings any efforts to obtain access to any patient identifying information subject to 42 C.F.R Part 2 and pertaining to substance use disorder diagnosis, treatment or referral for treatment, except as permitted under 42 C.F.R. Part 2.

7. TERM AND TERMINATION.

a) Term. This BAA shall be effective as of _____.

b) Termination. This BAA shall terminate as of the date the Underlying Contract terminates or expires.

c) Effect of Termination.

(i) Except as provided in Section 7(c)(ii), upon termination of this BAA, Subcontractor BA shall return or destroy all PHI received from Business Associate, or created or received by Subcontractor BA on behalf of Business Associate. This provision shall apply to PHI that is in the possession of Subcontractors or agents of Subcontractor BA.

(ii) In the event that Vendor determines that returning or destroying the PHI is infeasible, Vendor shall provide to Business Associate notification of the conditions that make return or destruction infeasible. Business Associate shall extend the protections of this BAA to such PHI and limit further uses and disclosure of such PHI in accordance with the terms of this BAA, for so long as Subcontractor BA maintains such PHI.

8. INDEMNIFICATION.

a) The indemnification and limitation of liability provisions applicable to this BAA are set forth in the Underlying Contract.

9. COORDINATION OF SUBCONTRACTOR AND BUSINESS ASSOCIATE.

a) Investigation. The Parties shall reasonably cooperate and coordinate with each other in the investigation of any violation of the requirements of this BAA and/or any Security Incident or Breach.

b) Regulatory References. Any reference in this BAA to a section in HIPAA or other applicable laws means the section as in effect or as amended or modified from time to time, including any corresponding provisions of subsequent superseding laws or regulations.

c) Amendment. The Parties agree to take such action as is necessary to amend this BA Subcontractor Agreement from time to time as is necessary for the Parties to comply with the requirements of the Privacy and Security Rules, and other provisions of HIPAA and the HITECH Act, and the form of Business Associate Agreement executed in connection with the Statewide Common Participation Agreement for participation in the Statewide Health Information Network for New York.

d) Survival. Notwithstanding any other provision of this BAA to the contrary, the terms of this Agreement shall survive its termination and continue indefinitely solely with respect to any PHI Vendor retains in accordance with this BAA.

e) Interpretation. Any ambiguity in this BAA shall be resolved to permit Business Associate and Subcontractor BA to comply with HIPAA. In event of any inconsistency or conflict between this BA Subcontractor Agreement and any Underlying Contract, the terms and conditions of this BA Subcontractor Agreement shall govern and control.

f) No Third-Party Beneficiaries. Except as expressly stated herein or in the Privacy Rule, NYeC and Business Associate do not intend to create any rights in any third parties. Nothing in this BAA shall confer upon any person other than NYeC and Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

g) Applicable Law. This BAA shall be governed under the laws of the State of New York, without regard to choice of law principles.

h) Notices. All notices, requests and demands or other communications to be given under this BAA to a Party shall be made in accordance with the notice requirements set forth in the Underlying Contract.

i) Terms. The terms of this Agreement are hereby incorporated into Underlying Contract and supplement and/or amend the Underlying Contract as required (and only as required) to allow the Parties to comply with HIPAA and other applicable laws. The terms of the Underlying Contract or the Underlying SDUC Use Request that are not modified by this BAA shall remain in full force and effect in accordance with the terms thereof. The Underlying Contracts, this BAA, and any amendments thereto, constitute the entire agreement of the Parties with respect to the subject matter contained herein.

[The remainder of this page intentionally left blank; signatures on the following page]

IN WITNESS WHEREOF, the Parties hereto have caused this Business Associate Agreement to be executed by their respective authorized signatories on the date first below written.

NEW YORK EHEALTH COLLABORATIVE, INC.	[CONTRACTOR]
Signature:_____	Name: Title:
Name:_____	Consultant Name: $company_name
Title:_____	Address: $street_address $street_address_2 $city0, $state_province $zip_or_postal_code0

APPENDIX A: CONFIDENTIALITY PROVISIONS RELATED TO MEDICAID CONFIDENTIAL DATA

Medicaid Confidential Data/Protected Health Information includes all information about a Medicaid recipient or applicant, including enrollment information, eligibility data and protected health information.

You must comply with the following state and federal laws and regulations:

- Section 367b(4) of the NY Social Services Law
- New York State Social Services Law Section 369 (4)
- Article 27-F of the New York Public Health Law & 18 NYCRR 360-8.1
- Social Security Act,42 USC 1396a (a)(7)
- Federal regulations at 42 CFR 431.302, 42 C.F.R. Part 2
- The Health Insurance Portability and Accountability act (HIPAA), at 45 CFR Parts 160 and 164
- NYS Mental Hygiene Law Section 33.13
- NY Civil Rights Law 79-L

Please note that MCD released to you may contain AIDS/HIV related confidential information as defined in Section 2780(7) of the New York Public Health Law. As required by New York Public Health Law Section 2782(5), the following notice is provided to you:

> "This information has been disclosed to you from confidential records which are protected by state law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of state law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is NOT sufficient authorization for the release for further disclosure."

Alcohol and Substance Abuse Related Confidentiality Restrictions:

Alcohol and substance abuse information is confidential pursuant to 42 C.F.R. Part 2. General authorizations are ineffective to obtain the release of such data. The federal regulations provide for a specific release for such data.

You agree to ensure that you and any agent, including a subcontractor, to whom you provide MCD/PHI, agrees to the same restrictions and conditions that apply throughout this Agreement. Further, you agree to state in any such agreement, contract or document that the part to whom you are providing the MCD/PHI may not further disclose it without the prior written approval of the New York State Department of Health. You agree to include the notices preceding, as well as references to statutory and regulatory citations set forth above, in any agreement, contract or document that you enter into that involves MCD/PHI.

ANY AGREEMENT, CONTRACT OR DOCUMENT WITH A SUBCONTRACTOR MUST CONTAIN ALL OF THE ABOVE PROVISIONS PERTAINING TO CONFIDENTIALITY. IT MUST CONTAIN THE HIV/AIDS NOTICE AS WELL AS A

STATEMENT THAT THE SUBCONTRACTOR MAY NOT USE OR DISCLOSE THE MCD WITHOUT THE PRIOR WRITTEN APPROVAL OF THE DEPARTMENT.