

BETTINA TWEARDY RIVEROS, ESQ., CHAIR  
LAURA HOWARD, EXECUTIVE DIRECTOR



STATE OF DELAWARE  
**DELAWARE HEALTH CARE COMMISSION**  
MARGARET O'NEILL BUILDING  
410 FEDERAL STREET, SUITE 7  
TELEPHONE: (302) 739-2730  
FAX: (302) 739-6927  
www.dhss.delaware.gov/dhcc

THEODORE W. BECKER, JR.  
THOMAS J. COOK  
A. RICHARD HEFFRON  
RITA LANDGRAF  
JANICE L. LEE, MD  
KATHLEEN S. MATT, PhD  
JANICE E. NEVIN, MD, MPH  
JENNIFER RANJI  
DENNIS ROCHFORD  
KAREN WELDIN STEWART

**PROFESSIONAL SERVICES AGREEMENT**  
**for**  
**PATIENT TRANSFORMATION SERVICES**  
**RFP # HSS-15-030**

This Professional Services Agreement (“Agreement”) is entered into as of November 9, 2015 by the parties, (Effective Date) and will end on November 9, 2016 unless specifically extended by an amendment signed by all parties to the Contract, by and between the State of Delaware, Department of Health and Social Services, Delaware Health Care Commission (“Commission”), and MedAllies, Inc., (the “Vendor”), with offices at 300 Westage Business Center Drive, Suite 320, Fishkill, NY 12524.

WHEREAS, Delaware desires to obtain certain services to support primary care practice transformation in Delaware as described in the HSS-15-030 request for proposal via three (3) explicit services of: 1) pre-transformation assessment; 2) practice transformation support curriculum; and 3) semi-annual assessment against milestones.

WHEREAS, Vendor desires to provide such services to Delaware on the terms set forth below;

WHEREAS, Delaware and Vendor represent and warrant that each party has full right, power and authority to enter into and perform under this Agreement;

FOR AND IN CONSIDERATION OF the premises and mutual agreements herein, Delaware and Vendor agree as follows:

**1. Services.**

- 1.1. Vendor shall perform for Delaware the services specified in the Appendices to this Agreement, attached hereto and made a part hereof.
- 1.2. Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) Delaware’s request for proposals, attached hereto as Appendix B; and (c) Vendor’s response to the

request for proposals, attached hereto as Exhibit B. The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

- 1.3. Delaware may, at any time, by written order, make changes in the scope of this Agreement and in the services or work to be performed. No services for which additional compensation may be charged by Vendor shall be furnished, without the written authorization of Delaware. When Delaware desires any addition or deletion to the deliverables or a change in the Services to be provided under this Agreement, it shall notify Vendor, who shall then submit to Delaware a "Change Order" for approval authorizing said change. The Change Order shall state whether the change shall cause an alteration in the price or the time required by Vendor for any aspect of its performance under this Agreement. Pricing of changes shall be consistent with those established within this Agreement.
- 1.4. Vendor will not be required to make changes to its scope of work that result in Vendor's costs exceeding the current unencumbered budgeted appropriations for the services. Any claim of either party for an adjustment under Section 1 of this Agreement shall be asserted in the manner specified in the writing that authorizes the adjustment.

## **2. Payment for Services and Expenses.**

- 2.1. The term of the initial contract shall be from November 9, 2015 through November 9, 2016.
- 2.2. Delaware will pay Vendor for the performance of services described in Appendix A, Statement of Work. The fee will be paid in accordance with the payment schedule attached hereto as part of Exhibit A.
- 2.3. Delaware's obligation to pay Vendor for the performance of services described in Appendix A, Statement of Work will not exceed \$1,275,000 which is based on the amount of \$12,750 per site annually as indicated in Exhibit A. It is expressly understood that the work defined in the appendices to this Agreement must be completed by Vendor and it shall be Vendor's responsibility to ensure that hours and tasks are properly budgeted so that all services are completed for the agreed upon fee. Delaware's total liability for all charges for services that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in Delaware's purchase order(s) to Vendor.
- 2.4. Vendor shall submit monthly invoices to Delaware in sufficient detail to support the services provided during the previous month. Delaware agrees to pay those invoices within thirty (30) days of receipt. In the event Delaware disputes a portion of an invoice, Delaware agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide Vendor a detailed statement of Delaware's position on the disputed portion of the invoice within thirty (30) days of receipt. Delaware's failure to pay any amount of an invoice that is not the subject of a good-faith dispute within thirty (30) days of receipt shall entitle Vendor to charge interest on the overdue portion at the lower of 1.0% per month. All payments should be sent to the Vendor's identified

address on record with the State of Delaware's Division of Accounting as identified in the completion of the electronic W-9.

- 2.5. Unless provided otherwise in an Appendix, all expenses incurred in the performance of the services are to be paid by Vendor. If an Appendix specifically provides for expense reimbursement, Vendor shall be reimbursed only for reasonable expenses incurred by Vendor in the performance of the services, including, but not necessarily limited to, travel and lodging expenses, communications charges, and computer time and supplies.
- 2.6. Delaware is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from any related deficiency, which may become due and payable as a consequence of this Agreement.
- 2.7. Delaware shall subtract from any payment made to Vendor all damages, costs and expenses caused by Vendor's negligence, resulting from or arising out of errors or omissions in Vendor's work products, which have not been previously paid to Vendor.
- 2.8. Invoices shall be submitted to:

**Delaware Health Care Commission  
Margaret O'Neill Building  
410 Federal Street, Suite 7  
Dover, DE 19901  
Attn: Eschalla Clarke, Senior Social Services Administrator**

### **3. Responsibilities of Vendor.**

- 3.1. Vendor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by Vendor, its subcontractors and its and their principals, officers, employees and agents under this Agreement. In performing the specified services, Vendor shall follow practices consistent with generally accepted professional and technical standards. Vendor shall be responsible for ensuring that all services, products and deliverables furnished pursuant to this Agreement comply with the standards promulgated by the Department of Technology and Information ("DTI") published at <http://dti.delaware.gov/>, and as modified from time to time by DTI during the term of this Agreement. If any service, product or deliverable furnished pursuant to this Agreement does not conform to DTI standards, Vendor shall, at its expense and option either (1) replace it with a conforming equivalent or (2) modify it to conform to DTI standards. Vendor shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to Delaware caused by Vendor's failure to ensure compliance with DTI standards.
- 3.2. It shall be the duty of the Vendor to assure that all products of its effort are technically sound and in conformance with all pertinent Federal, State and Local statutes, codes, ordinances, resolutions and other regulations. Vendor will not produce a work product

that violates or infringes on any copyright or patent rights. Vendor shall, without additional compensation, correct or revise any errors or omissions in its work products.

- 3.3. Permitted or required approval by Delaware of any products or services furnished by Vendor shall not in any way relieve Vendor of responsibility for the professional and technical accuracy and adequacy of its work. Delaware's review, approval, acceptance, or payment for any of Vendor's services herein shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Vendor shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to Delaware caused by Vendor's performance or failure to perform under this Agreement.
- 3.4. Vendor shall appoint a Project Manager who will manage the performance of services. All of the services specified by this Agreement shall be performed by the Project Manager, or by Vendor's associates and employees under the personal supervision of the Project Manager. The positions anticipated include:

<b>Team Member</b>	<b>Title/Role</b>	<b>% Project Involvement</b>
Betty Jessup, RN	Project Lead	0.50 FTE
Dianne Koval, RHIA, CPEHR	HIT Consultant	0.10 FTE
Holly Miller, MD, MBA	Physician Lead	0.25 FTE
Jeremy Albergo	Project Manager	0.20 FTE
Maria Strohmeier, RN, MSN, CCM	Clinical Consultant	0.25 FTE
Rachel Celizic, RN	Transformation Consultant	1.0 FTE
Audrey Beccles, RHIA	Transformation Consultant	1.0 FTE
Theresa McGowan	Transformation Consultant	1.0 FTE
Nicole Klein	Transformation Consultant	1.0 FTE

- 3.5. Designation of persons for each position is subject to review and approval by Delaware. Should the staff need to be diverted off the project for what are now unforeseeable circumstances, Vendor will notify Delaware immediately and work out a transition plan that is acceptable to both parties, as well as agree to an acceptable replacement plan to fill or complete the work assigned to this project staff position. Replacement staff persons are subject to review and approval by Delaware. If Vendor fails to make a required replacement within 30 days, Delaware may terminate this Agreement for default. Upon receipt of written notice from Delaware that an employee of Vendor is unsuitable to Delaware for good cause, Vendor shall remove such employee from the performance of services and substitute in his/her place a suitable employee.
- 3.6. Vendor shall furnish to Delaware's designated representative copies of all correspondence to regulatory agencies for review prior to mailing such correspondence.
- 3.7. Vendor agrees that its officers and employees will cooperate with Delaware in the performance of services under this Agreement and will be available for consultation with Delaware at such reasonable times with advance notice as to not conflict with their other responsibilities.

- 3.8. Vendor has or will retain such employees as it may need to perform the services required by this Agreement. Such employees shall not be employed by Delaware or any other political subdivision of Delaware.
- 3.9. Vendor will not use Delaware's name, either express or implied, in any of its advertising or sales materials without Delaware's express written consent.
- 3.10. The rights and remedies of Delaware provided for in this Agreement are in addition to any other rights and remedies provided by law.

**4. Time Schedule.**

- 4.1. A project schedule- Statement of Work- is included in Appendix A.
- 4.2. Any delay of services or change in sequence of tasks must be approved in writing by Delaware.
- 4.3. In the event that Vendor fails to complete the project or any phase thereof within the time specified in the Contract, or with such additional time as may be granted in writing by Delaware, or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this Agreement or any extensions thereof, Delaware shall suspend the payments scheduled as set forth in Appendix A and Exhibit A.

**5. State Responsibilities.**

- 5.1. In connection with Vendor's provision of the Services, Delaware shall perform those tasks and fulfill those responsibilities specified in the appropriate Appendices.
- 5.2. Delaware agrees that its officers and employees will cooperate with Vendor in the performance of services under this Agreement and will be available for consultation with Vendor at such reasonable times with advance notice as to not conflict with their other responsibilities.
- 5.3. The services performed by Vendor under this Agreement shall be subject to review for compliance with the terms of this Agreement by Delaware's designated representatives. Delaware representatives may delegate any or all responsibilities under the Agreement to appropriate staff members, and shall so inform Vendor by written notice before the effective date of each such delegation.
- 5.4. The review comments of Delaware's designated representatives may be reported in writing as needed to Vendor. It is understood that Delaware's representatives' review comments do not relieve Vendor from the responsibility for the professional and technical accuracy of all work delivered under this Agreement.
- 5.5. Delaware shall, without charge, furnish to or make available for examination or use by Vendor as it may request, any data which Delaware has available, including as examples only and not as a limitation:

- a. Copies of reports, surveys, records, and other pertinent documents;
- b. Copies of previously prepared reports, job specifications, surveys, records, ordinances, codes, regulations, other documents, and information related to the services specified by this Agreement.

Vendor shall return any original data provided by Delaware.

- 5.6. Delaware shall assist Vendor in obtaining data on documents from public officers or agencies and from private citizens and business firms whenever such material is necessary for the completion of the services specified by this Agreement.
- 5.7. Vendor will not be responsible for accuracy of information or data supplied by Delaware or other sources to the extent such information or data would be relied upon by a reasonably prudent contractor.
- 5.8. Delaware agrees not to use Vendor's name, either express or implied, in any of its advertising or sales materials. Vendor reserves the right to reuse the nonproprietary data and the analysis of industry-related information in its continuing analysis of the industries covered.

## **6. Work Product.**

- 6.1. All materials, information, documents, and reports, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by Vendor for Delaware relating to the services to be performed hereunder shall become the property of Delaware and shall be delivered to Delaware's designated representative upon completion or termination of this Agreement, whichever comes first. Vendor shall not be liable for damages, claims, and losses arising out of any reuse of any work products on any other project conducted by Delaware. Delaware shall have the right to reproduce all documentation supplied pursuant to this Agreement.
- 6.2. Vendor retains all title and interest to the data it furnished and/or generated pursuant to this Agreement. Retention of such title and interest does not conflict with Delaware's rights to the materials, information and documents developed in performing the project. Upon final payment, Delaware shall have a perpetual, nontransferable, non-exclusive paid-up right and license to use, copy, modify and prepare derivative works of all materials in which Vendor retains title, whether individually by Vendor or jointly with Delaware. Any and all source code developed in connection with the services provided will be provided to Delaware, and the aforementioned right and license shall apply to source code. The parties will cooperate with each other and execute such other documents as may be reasonably deemed necessary to achieve the objectives of this Section.
- 6.3. In no event shall Vendor be precluded from developing for itself, or for others, materials that are competitive with the Deliverables, irrespective of their similarity to the Deliverables. In addition, Vendor shall be free to use its general knowledge, skills

and experience, and any ideas, concepts, know-how, and techniques within the scope of its consulting practice that are used in the course of providing the services.

- 6.4. Notwithstanding anything to the contrary contained herein or in any attachment hereto, any and all intellectual property or other proprietary data owned by Vendor prior to the effective date of this Agreement (“Preexisting Information”) shall remain the exclusive property of Vendor even if such Preexisting Information is embedded or otherwise incorporated into materials or products first produced as a result of this Agreement or used to develop such materials or products. Delaware’s rights under this section shall not apply to any Preexisting Information or any component thereof regardless of form or media.

## **7. Confidential Information.**

To the extent permissible under 29 *Del. C.* § 10001, et seq., the parties to this Agreement shall preserve in strict confidence any information, reports or documents obtained, assembled or prepared in connection with the performance of this Agreement.

## **8. Warranty.**

- 8.1. Vendor warrants that its services will be performed in a good and workmanlike manner. Vendor agrees to re-perform any work not in compliance with this warranty brought to its attention within a reasonable time after that work is performed.
- 8.2. Third-party products within the scope of this Agreement are warranted solely under the terms and conditions of the licenses or other agreements by which such products are governed. With respect to all third-party products and services purchased by Vendor for Delaware in connection with the provision of the Services, Vendor shall pass through or assign to Delaware the rights Vendor obtains from the manufacturers and/or vendors of such products and services (including warranty and indemnification rights), all to the extent that such rights are assignable.

## **9. Indemnification; Limitation of Liability.**

- 9.1. Vendor shall indemnify and hold harmless the State, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys’ fees) directly arising out of:
  - a. the negligence or other wrongful conduct of the Vendor, its agents or employees, or
  - b. Vendor’s breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that
    - i. Vendor shall have been notified promptly in writing by Delaware of any notice of such claim; and
    - ii. Vendor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.

- 9.2. If Delaware promptly notifies Vendor in writing of a third party claim against Delaware that any Deliverable infringes a copyright or a trade secret of any third party, Vendor will defend such claim at its expense and will pay any costs or damages that may be finally awarded against Delaware. Vendor will not indemnify Delaware, however, if the claim of infringement is caused by:
- a. Delaware's misuse or modification of the Deliverable;
  - b. Delaware's failure to use corrections or enhancements made available by Vendor;
  - c. Delaware's use of the Deliverable in combination with any product or information not owned or developed by Vendor;
  - d. Delaware's distribution, marketing or use for the benefit of third parties of the Deliverable or
  - e. Information, direction, specification or materials provided by Client or any third party. If any Deliverable is, or in Vendor's opinion is likely to be, held to be infringing, Vendor shall at its expense and option either
    - i. Procure the right for Delaware to continue using it,
    - ii. Replace it with a non-infringing equivalent,
    - iii. Modify it to make it non-infringing.

The foregoing remedies constitute Delaware's sole and exclusive remedies and Vendor's entire liability with respect to infringement.

## 10. Employees.

- 10.1. Vendor has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by Vendor in the performance of the services hereunder; provided, however, that it will, subject to scheduling and staffing considerations, attempt to honor Delaware's request for specific individuals.
- 10.2. Except as the other party expressly authorizes in writing in advance, neither party shall solicit, offer work to, employ, or contract with, whether as a partner, employee or independent contractor, directly or indirectly, any of the other party's Personnel during their participation in the services or during the twelve (12) months thereafter. For purposes of this Section, Personnel includes any individual or company a party employs as a partner, employee or independent contractor and with which a party comes into direct contact in the course of the services.



10.3. Possession of a Security Clearance, as issued by the Delaware Department of Public Safety, may be required of any employee of Vendor who will be assigned to this project.

#### **11. Independent Contractor.**

11.1. It is understood that in the performance of the services herein provided for, Vendor shall be, and is, an independent contractor, and is not an agent or employee of Delaware and shall furnish such services in its own manner and method except as required by this Agreement. Vendor shall be solely responsible for, and shall indemnify, defend and save Delaware harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.

11.2. Vendor acknowledges that Vendor and any subcontractors, agents or employees employed by Vendor shall not, under any circumstances, be considered employees of Delaware, and that they shall not be entitled to any of the benefits or rights afforded employees of Delaware, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits. Delaware will not provide or pay for any liability or medical insurance, retirement contributions or any other benefits for or on behalf of Delaware or any of its officers, employees or other agents.

11.3. Vendor shall be responsible for providing liability insurance for its personnel.

11.4. As an independent contractor, Vendor has no authority to bind or commit Delaware. Nothing herein shall be deemed or construed to create a joint venture, partnership, fiduciary or agency relationship between the parties for any purpose.

#### **12. Suspension.**

12.1. Delaware may suspend performance by Vendor under this Agreement for such period of time as Delaware, at its sole discretion, may prescribe by providing written notice to Vendor at least 30 working days prior to the date on which Delaware wishes to suspend. Upon such suspension, Delaware shall pay Vendor its compensation, based on the percentage of the project completed and earned until the effective date of suspension, less all previous payments. Vendor shall not perform further work under this Agreement after the effective date of suspension. Vendor shall not perform further work under this Agreement after the effective date of suspension until receipt of written notice from Delaware to resume performance.

12.2. In the event Delaware suspends performance by Vendor for any cause other than the error or omission of the Vendor, for an aggregate period in excess of 30 days, Vendor shall be entitled to an equitable adjustment of the compensation payable to Vendor under this Agreement to reimburse Vendor for additional costs occasioned as a result of such suspension of performance by Delaware based on appropriated funds and approval by Delaware.

### 13. Termination.

- 13.1. This Agreement may be terminated in whole or in part by either party in the event of substantial failure of the other party to fulfill its obligations under this Agreement through no fault of the terminating party; but only after the other party is given:
  - a. Not less than 20 calendar days written notice of intent to terminate; and
  - b. An opportunity for consultation with the terminating party prior to termination.
- 13.2. This Agreement may be terminated in whole or in part by Delaware for its convenience, but only after Vendor is given:
  - a. Not less than 20 calendar days written notice of intent to terminate; and
  - b. An opportunity for consultation with Delaware prior to termination.
- 13.3. If termination for default is effected by Delaware, Delaware will pay Vendor that portion of the compensation which has been earned as of the effective date of termination, but:
  - a. No amount shall be allowed for anticipated profit on performed or unperformed services or other work, and
  - b. Any payment due to Vendor at the time of termination may be adjusted to the extent of any additional costs occasioned to Delaware by reason of Vendor's default.
  - c. Upon termination for default, Delaware may take over the work and prosecute the same to completion by agreement with another party or otherwise. In the event Vendor shall cease conducting business, Delaware shall have the right to make an unsolicited offer of employment to any employees of Vendor assigned to the performance of the Agreement, notwithstanding the provisions of Section 10.2.
- 13.4. If after termination for failure of Vendor to fulfill contractual obligations it is determined that Vendor has not so failed, the termination shall be deemed to have been effected for the convenience of Delaware.
- 13.5. The rights and remedies of Delaware and Vendor provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.
- 13.6. Gratuities.
  - a. Delaware may, by written notice to Vendor, terminate this Agreement if it is found after notice and hearing by Delaware that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Vendor or any agent or representative of Vendor to any officer or employee of Delaware with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this Agreement.

- b. In the event this Agreement is terminated as provided in 13.6.a hereof, Delaware shall be entitled to pursue the same remedies against Vendor it could pursue in the event of a breach of this Agreement by Vendor.
- c. The rights and remedies of Delaware provided in Section 13.6 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

**14. Severability.**

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

**15. Assignment; Subcontracts.**

- 15.1. Any attempt by Vendor to assign or otherwise transfer any interest in this Agreement without the prior written consent of Delaware shall be void. Such consent shall not be unreasonably withheld.
- 15.2. Services specified by this Agreement shall not be subcontracted by Vendor, without prior written approval of Delaware.
- 15.3. Approval by Delaware of Vendor's request to subcontract or acceptance of or payment for subcontracted work by Delaware shall not in any way relieve Vendor of responsibility for the professional and technical accuracy and adequacy of the work. All subcontractors shall adhere to all applicable provisions of this Agreement.
- 15.4. Vendor shall be and remain liable for all damages to Delaware caused by negligent performance or non-performance of work under this Agreement by Vendor, its subcontractor or its sub-subcontractor.
- 15.5. The compensation due shall not be affected by Delaware's approval of the Vendor's request to subcontract.

**16. Force Majeure.**

Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.

**17. Non-Appropriation of Funds.**

- 17.1. Validity and enforcement of this Agreement is subject to appropriations by the General Assembly of the specific funds necessary for contract performance. Should such funds not be so appropriated Delaware may immediately terminate this Agreement, and absent such action this Agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available, at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.
- 17.2. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate and Delaware's obligations under it shall be extinguished at the end of the fiscal year in which Delaware fails to appropriate monies for the ensuing fiscal year sufficient for the payment of all amounts which will then become due.

**18. State of Delaware Business License.**

Vendor and all subcontractors represent that they are properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* ' 2502.

**19. Complete Agreement.**

- 19.1. This agreement and its Appendices shall constitute the entire agreement between Delaware and Vendor with respect to the subject matter of this Agreement and shall not be modified or changed without the express written consent of the parties. The provisions of this agreement supersede all prior oral and written quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement.
- 19.2. If the scope of any provision of this Agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the Agreement shall not thereby fail, but the scope of such provision shall be curtailed only to the extent necessary to conform to the law.
- 19.3. Vendor may not order any product requiring a purchase order prior to Delaware's issuance of such order. Each Appendix, except as its terms otherwise expressly provide, shall be a complete statement of its subject matter and shall supplement and modify the terms and conditions of this Agreement for the purposes of that engagement only. No other agreements, representations, warranties or other matters, whether oral or written, shall be deemed to bind the parties hereto with respect to the subject matter hereof.

**20. Miscellaneous Provisions.**

- 20.1. In performance of this Agreement, Vendor shall comply with all applicable federal, state and local laws, ordinances, codes and regulations. Vendor shall solely bear the costs of permits and other relevant costs required in the performance of this Agreement.

- 20.2. Neither this Agreement nor any appendix may be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.
- 20.3. The delay or failure by either party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.
- 20.4. Vendor covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Vendor further covenants, to its knowledge and ability, that in the performance of said services no person having any such interest shall be employed.
- 20.5. Vendor acknowledges that Delaware has an obligation to ensure that public funds are not used to subsidize private discrimination. Vendor recognizes that if they refuse to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, Delaware may declare Vendor in breach of the Agreement, terminate the Agreement, and designate Vendor as non-responsible.
- 20.6. Vendor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, Delaware shall have the right to annul this contract without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.
- 20.7. This Agreement was drafted with the joint participation of both parties and shall be construed neither against nor in favor of either, but rather in accordance with the fair meaning thereof.
- 20.8. Vendor shall maintain all public records, as defined by 29 *Del. C.* ' 502(1), relating to this Agreement and its deliverables for the time and in the manner specified by the Delaware Division of Archives, pursuant to the Delaware Public Records Law, 29 *Del. C.* Ch. 5. During the term of this Agreement, authorized representatives of Delaware may inspect or audit Vendor' performance and records pertaining to this Agreement at the Vendor business office during normal business hours.

## 21. **Insurance.**

- 21.1. Vendor shall maintain the following insurance during the term of this Agreement:
- a. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, **and**

- b. Comprehensive General Liability - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate, **and**
- c. Medical/Professional Liability - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate; or
- d. Miscellaneous Errors and Omissions - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate, or
- e. Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.

21.2. Should any of the above described policies be cancelled before expiration date thereof, notice will be delivered in accordance with the policy provisions..

21.3. Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the contract number stated herein, shall be filed with the State. The certificate holder is as follows:

**Delaware Health Care Commission  
Margaret O’Neill Building  
410 Federal Street, Suite 7  
Dover, DE 19901  
Helen Arthur, Director of Planning & Policy**

21.4. In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.

**22. Assignment of Antitrust Claims.**

As consideration for the award and execution of this contract by the State, Vendor hereby grants, conveys, sells, assigns, and transfers to Delaware all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, relating to the particular goods or services purchased or acquired by the State pursuant to this contract.

**23. Governing Law.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. Vendor consents to jurisdiction venue in the State of Delaware.

**24. Notices.**

Any and all notices required by the provisions of this Agreement shall be in writing and shall be mailed, certified or registered mail, return receipt requested. All notices shall be sent to the following addresses:



**APPENDIX A**  
**STATEMENT OF WORK**

The following information is operational detail from the HSS-15-030 Request for Proposal (RFP). This is meant to highlight essential expectations for this project; however, does not mitigate the full RFP content.

**A. SERVICES**

MedAllies, Inc., agrees to provide the following three (3) services in accordance with the Request for Proposal:

**1. Pre-transformation assessment**

Conduct an initial assessment of each primary care practice site to identify current capabilities and progress against the transformation milestones. Across the landscape of primary care practices in Delaware, HCC anticipates a range of readiness and starting states for practice transformation. Therefore, vendors should conduct an initial, rapid, standardized assessment of the current needs of each practice site. Vendors should then use the outputs of the assessment to develop a tailored curriculum for each site (described further in #2 below). Assessments should identify strengths and gaps in workforce, infrastructure, and workflows as they relate to capabilities and transformation milestones, prioritizing areas for improvement.

**2. Practice transformation support curriculum**

Vendors should develop and execute a standard curriculum that can be tailored for each primary care practice site based on the needs identified in the pre-transformation assessment. Vendors should provide a standard curriculum for each of the first and second years of transformation, including frequency and structure of learning activities. The curriculum may include content structured through the following modalities:

- **Learning collaboratives:** Vendors should establish and facilitate peer-to-peer learning collaboratives among practices to allow PCPs to learn from one another's experience. To enable learning and adoption at the practice level, practice transformation vendors should create mechanisms for providers to share best practices, to collaborate on common problems, and to adopt and refine evidence-informed protocols. HCC expects vendors to hold learning collaboratives quarterly. To encourage practice participation and maximize learning opportunities, vendors should structure collaboratives around practices of similar size and/or geography. Vendors should propose 2-year learning collaborative curriculum that aligned with practice transformation support. HCC expects that DCHI may provide additional recommendations on learning collaboratives over the coming months and that vendors will incorporate these recommendations;
- **Large format in-person trainings:** The curriculum may include large-format conferences, trainings, or symposia;
- **Live webinars:** The curriculum may include live, hosted webinars with live Q&A;
- **Recorded trainings:** The curriculum may include recorded trainings available to providers online on a self-serve basis; and
- **On-site coaching:** The curriculum may include on-site coaching for practice staff, e.g., one-on-one coaching sessions with a practice manager, a provider champion, and/or a small group of practice staff. The curriculum should be focused on building capabilities for effective population health management in a way that reduces the rate of growth in total cost of care



while improving health, quality of care, and patient experience going beyond simply helping practices to meet the transformation milestones as defined in DCHI Consensus Paper.

### **3. Semi-annual assessment against milestones**

For each participating practice site, vendors should conduct an assessment of progress towards each practice transformation milestone. Assessments should be conducted every 6 months, noting milestones that have been achieved and any upcoming milestones that a practice site may be at risk of missing.

## **B. REPORTING REQUIREMENTS**

Vendors shall be responsible for providing the following reports in a format provided by HCC- including content requirements. At its discretion, HCC may share vendor reports with the Board of the DCHI.

1. **Start-up:** The vendor shall provide an initial report describing the vendor's completion of start-up activities, including, but not limited to, hiring of new staff, development of provider outreach and enrollment plans, and readiness to begin engaging with providers. **The vendor shall submit a report on its provider outreach and enrollment approach within thirty (30) days, and a final start-up report with the remaining information, including proposed metrics demonstrating progress and effectiveness, within sixty (60) days of the notice of contract award.**

2. **Monthly progress:** The vendor shall provide monthly progress reports to HCC, which may be shared with the DCHI Board of Directors. The progress report must include, but is not limited to, the following information:

- 1) list of practice sites enrolled;
- 2) current status of support for each site (e.g., pre-assessment transformation complete, tailored curriculum developed);
- 3) vendor activity for that month; and
- 4) any operating issues related to providing support, including, but not limited to, vendor capacity constraints or challenges with provider participation.

Vendor should propose a set of metrics to demonstrate progress and measure overall effectiveness and report on these to the HCC in these monthly progress reports.

3. **Practice participation:** The vendor shall report on a quarterly basis the participation by each practice site in transformation activities, including but not limited to, **practice enrollment, attendance at onsite coaching sessions, completion of online webinars, and participation in learning collaboratives.**

4. **Risks:** The vendor shall submit a Risks Report on "at-risk" practices that are unlikely to achieve some or all milestones on the required timeline. For each at-risk practice site, the vendor shall submit a corrective action plan jointly developed with the practice site. **The Risks Report shall be submitted quarterly.** The vendor shall include an addendum to the monthly progress report for all practice sites that have a corrective action plan describing progress against the plan.

5. **Semi-annual assessment:** The vendor shall submit a report every six (6) months upon completing an assessment of progress towards milestones at each practice site in accordance with

the Delaware Center for Health Innovation Primary Care Practice Transformation Consensus Paper. The report shall describe the milestones that have been achieved by each practice site and provide summary statistics on the number of practice sites achieving each milestone for each enrollment wave.

**Quantitative Transformation Milestones will be used to measure each practices progress on population health management (From the DCHI Practice Transformation Consensus Paper, pg. 9)**

<b>6 months</b>	<b>12 months</b>	<b>18 months</b>	<b>24 months</b>
Identify the 5% of panel at the highest risk and highest priority for care coordination (6 months)	Supply voice-to-voice coverage to panel members 24/7 (e.g., patient can speak with a licensed health professional at any time) (12 months).	Implement a process for contacting patients who did not receive appropriate preventive care (18 months).	Implement a multi-disciplinary team working with highest-risk patients to develop care plans (24 months).
Provide same-day appointments and/or after-hours access to care (6 months).	Document sourcing and implementation plan for launching a multidisciplinary team working with the highest-risk patients to develop a care plan (12 months).		Document a plan for patients with behavioral health needs (24 months).
Implement a process for following up after hospital discharge (6 months)	Document plan to reduce emergency room overutilization (12 months).		

**EXHIBIT A**  
**MIX AND INTENSITY OF REQUIRED SERVICES**

**C. AGREEMENTS AND ASSUMPTIONS**

**MedAllies, Inc.** will provide Practice Transformation Services (PTS) for the Delaware Health Care Commission, in collaboration with the Delaware Center for Health Innovation (DCHI) to support primary care practice transformation in Delaware. The funding to support the PTS project is the result of a State Innovation Model (SIM) Test grant from the Center for Medicare and Medicaid Innovation (CMMI). Vendors' participating in this project must be aware that collaboration with the CMMI federal agency may require occasional revisions to the certain aspects of the State of Delaware's practice transformation services efforts. As such, a few elements are agreeable to all parties:

1. As indicated in the RFP, vendor payments will be paid on a per site per month (PSPM) basis for each practice enrolled in practice transformation efforts with a vendor. PSPM is subject to successful performance.

**Total payments under this contract shall not exceed \$1,275,000 which is based on a set budget of \$12,750 per practice site per year inclusive of overhead and management costs.**

2. MedAllies, Inc. agrees to work in collaboration with HCC, the DCHI, and the HCC's state-led evaluation vendor (selection pending) to meet Delaware's evaluation requirements of the federal CMMI Cooperative Agreement program.
3. MedAllies, Inc. agrees to propose a set of metrics, to be approved by the HCC, to demonstrate progress and measure overall effectiveness. These metrics will be reported via monthly progress reports which may be shared with the DCHI.
4. Each vendor selected under this RFP agrees to participate in one kick-off and subsequent quarterly Practice Transformation vendor meetings. Attendance may be required in person or may be conducted via conference call. These will be scheduled by the HCC as required to promote collaboration and streamline processes for the project.
5. Each monthly invoice must be accompanied by monthly progress reports as outlined in Appendix A. Purchase Order numbers must be documented on all invoices.

<b>Basic</b>					
<b>Modality of service</b>	<b>Description</b>	<b># units per PCP site</b>	<b>Cost per unit</b>	<b>Cost per PCP site</b>	
Pre-transformation assessment	Initial assessment to identify current capabilities and progress against transformation milestones, used to tailor curriculum	18.0	hours of initial assessment \$150 per hour	\$2,400	per site per year of support
Semi-annual assessment	Semi-annual assessment of progress towards each practice transformation milestone	2.0	hours per semi-annual assessment \$150 per hour	\$300	per site per year of support
Learning collaboratives	Small-group meetings of 5-13 practice sites, represented by office managers	1.5	hours of meetings per year of support \$150 per hour	\$225	per site per year of support
Large-format in-person training	Large-format trainings, conferences or symposia	0.5	hours of large-format training \$150 per hour	\$75	per site per year of support
Live webinars	Hosted webinars with live Q&A	1.5	hours of live hosted webinars \$150 per hour of hosted webinars	\$225	per site per year of support
Recorded online trainings (self-serve)	Self-serve, recorded webinars (unlimited access to online library at no additional cost)	53.0	recorded webinars \$0 per webinar	\$0	per site per year of support
On-site coaching	One-on-one coaching with practice manager, physician champion, or small group at the practice site	38.0	hours of on-site coaching per year of support \$150 per hour	\$5,400	per site per year of support
Other: Virtual coaching	One-on-one coaching with practice manager, physician champion, or small group by phone, webcam, etc.	22.5	hours of virtual coaching per year of support \$150 per hour	\$3,375	per site per year of support
Call Center Support	Toll-free telephone support available during normal business hours	5.0	hours of call center support per year \$150 per hour	\$750	per site per year of support
<b>Total per PCP site per year of support</b>		<b>85.0</b>		<b>\$11,750</b>	<b>per site per year of support</b>

<b>Advanced</b>					
<b>Modality of service</b>	<b>Description</b>	<b># units per PCP site</b>	<b>Cost per unit</b>	<b>Cost per PCP site</b>	
Pre-transformation assessment	Initial assessment to identify current capabilities and progress against transformation milestones, used to tailor curriculum	16.0	hours of initial assessment \$150 per hour	\$2,400	per site per year of support
Semi-annual assessment	Semi-annual assessment of progress towards each practice transformation milestone	2.0	hours per semi-annual assessment \$150 per hour	\$300	per site per year of support
Learning collaboratives	Small-group meetings of 5-15 practice sites, represented by office managers	1.5	hours of meetings per year of support \$150 per hour	\$225	per site per year of support
Large-format in-person training	Large-format trainings, conferences or symposia	0.5	hours of large-format training \$150 per hour	\$75	per site per year of support
Live webinars	Hosted webinars with live Q&A	1.5	hours of live hosted webinars \$150 per hour of hosted webinars	\$225	per site per year of support
Recorded online trainings (self-serve)	Self-serve, recorded online trainings (unlimited access to online library at no additional cost)	33.0	recorded online training \$0 per online training	\$0	per site per year of support
On-site coaching	One-on-one coaching with practice manager, physician champion, or small group at the practice site	36.0	hours of on-site coaching per year of support \$150 per hour	\$5,400	per site per year of support
Other: Virtual coaching	One-on-one coaching with practice manager, physician champion, or small group by phone, webcam, etc.	22.5	hours of virtual coaching per year of support \$150 per hour	\$3,375	per site per year of support
Call Center Support	Toll-free telephone support available during normal business hours	5.0	hours of call center support per year \$150 per hour	\$750	per site per year of support
<b>Total per PCP site per year of support</b>		<b>86.0</b>		<b>\$12,750</b>	<b>per site per year of support</b>

BETTINA TWEARDY RIVEROS, ESQ., CHAIR  
LAURA HOWARD, EXECUTIVE DIRECTOR



STATE OF DELAWARE  
**DELAWARE HEALTH CARE COMMISSION**  
MARGARET O'NEILL BUILDING  
410 FEDERAL STREET, SUITE 7  
TELEPHONE: (302) 739-2730  
FAX: (302) 739-6927  
www.dhss.delaware.gov/dhcc

THEODORE W. BECKER, JR.  
THOMAS J. COOK  
A. RICHARD HEFFRON  
RITA LANDGRAF  
JANICE L. LEE, MD  
KATHLEEN S. MATT, PhD  
JANICE E. NEVIN, MD, MPH  
JENNIFER RANJI  
DENNIS ROCHFORD  
KAREN WELDIN STEWART

**PROFESSIONAL SERVICES AGREEMENT**  
**for**  
**PATIENT TRANSFORMATION SERVICES**  
**RFP # HSS-15-030**

This Professional Services Agreement (“Agreement”) is entered into as of November 9, 2015 by the parties, (Effective Date) and will end on November 9, 2016 unless specifically extended by an amendment signed by all parties to the Contract, by and between the State of Delaware, Department of Health and Social Services, Delaware Health Care Commission ("Commission"), and Medical Society of Delaware/MedNet, (the “Vendor”), with offices at 900 Prides Crossing, Newark, DE 19713.

WHEREAS, Delaware desires to obtain certain services to support primary care practice transformation in Delaware as described in the HSS-15-030 request for proposal via three (3) explicit services of: 1) pre-transformation assessment; 2) practice transformation support curriculum; and 3) semi-annual assessment against milestones.

WHEREAS, Vendor desires to provide such services to Delaware on the terms set forth below;

WHEREAS, Delaware and Vendor represent and warrant that each party has full right, power and authority to enter into and perform under this Agreement;

FOR AND IN CONSIDERATION OF the premises and mutual agreements herein, Delaware and Vendor agree as follows:

**1. Services.**

- 1.1. Vendor shall perform for Delaware the services specified in the Appendices to this Agreement, attached hereto and made a part hereof.
- 1.2. Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) Delaware’s request for proposals, attached hereto as Appendix B; and (c) Vendor’s response to the

request for proposals, attached hereto as Exhibit B. The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

- 1.3. Delaware may, at any time, by written order, make changes in the scope of this Agreement and in the services or work to be performed. No services for which additional compensation may be charged by Vendor shall be furnished, without the written authorization of Delaware. When Delaware desires any addition or deletion to the deliverables or a change in the Services to be provided under this Agreement, it shall notify Vendor, who shall then submit to Delaware a "Change Order" for approval authorizing said change. The Change Order shall state whether the change shall cause an alteration in the price or the time required by Vendor for any aspect of its performance under this Agreement. Pricing of changes shall be consistent with those established within this Agreement.
- 1.4. Vendor will not be required to make changes to its scope of work that result in Vendor's costs exceeding the current unencumbered budgeted appropriations for the services. Any claim of either party for an adjustment under Section 1 of this Agreement shall be asserted in the manner specified in the writing that authorizes the adjustment.

## **2. Payment for Services and Expenses.**

- 2.1. The term of the initial contract shall be from November 9, 2015 through November 9, 2016.
- 2.2. Delaware will pay Vendor for the performance of services described in Appendix A, Statement of Work. The fee will be paid in accordance with the payment schedule attached hereto as part of Exhibit A.
- 2.3. Delaware's obligation to pay Vendor for the performance of services described in Appendix A, Statement of Work will not exceed \$1,200,000 which is based on the amount of \$12,000 per site annually as indicated in Exhibit A. It is expressly understood that the work defined in the appendices to this Agreement must be completed by Vendor and it shall be Vendor's responsibility to ensure that hours and tasks are properly budgeted so that all services are completed for the agreed upon fee. Delaware's total liability for all charges for services that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in Delaware's purchase order(s) to Vendor.
- 2.4. Vendor shall submit monthly invoices to Delaware in sufficient detail to support the services provided during the previous month. Delaware agrees to pay those invoices within thirty (30) days of receipt. In the event Delaware disputes a portion of an invoice, Delaware agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide Vendor a detailed statement of Delaware's position on the disputed portion of the invoice within thirty (30) days of receipt. Delaware's failure to pay any amount of an invoice that is not the subject of a good-faith dispute within thirty (30) days of receipt shall entitle Vendor to charge interest on the overdue portion at the lower of 1.0% per month. All payments should be sent to the Vendor's identified

address on record with the State of Delaware's Division of Accounting as identified in the completion of the electronic W-9.

- 2.5. Unless provided otherwise in an Appendix, all expenses incurred in the performance of the services are to be paid by Vendor. If an Appendix specifically provides for expense reimbursement, Vendor shall be reimbursed only for reasonable expenses incurred by Vendor in the performance of the services, including, but not necessarily limited to, travel and lodging expenses, communications charges, and computer time and supplies.
- 2.6. Delaware is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from any related deficiency, which may become due and payable as a consequence of this Agreement.
- 2.7. Delaware shall subtract from any payment made to Vendor all damages, costs and expenses caused by Vendor's negligence, resulting from or arising out of errors or omissions in Vendor's work products, which have not been previously paid to Vendor.
- 2.8. Invoices shall be submitted to:

**Delaware Health Care Commission  
Margaret O'Neil Building  
410 Federal Street, Suite 7  
Dover, DE 19901  
Attn: Eschalla Clarke, Senior Social Services Administrator**

### **3. Responsibilities of Vendor.**

- 3.1. Vendor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by Vendor, its subcontractors and its and their principals, officers, employees and agents under this Agreement. In performing the specified services, Vendor shall follow practices consistent with generally accepted professional and technical standards. Vendor shall be responsible for ensuring that all services, products and deliverables furnished pursuant to this Agreement comply with the standards promulgated by the Department of Technology and Information ("DTI") published at <http://dti.delaware.gov/>, and as modified from time to time by DTI during the term of this Agreement. If any service, product or deliverable furnished pursuant to this Agreement does not conform to DTI standards, Vendor shall, at its expense and option either (1) replace it with a conforming equivalent or (2) modify it to conform to DTI standards. Vendor shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to Delaware caused by Vendor's failure to ensure compliance with DTI standards.
- 3.2. It shall be the duty of the Vendor to assure that all products of its effort are technically sound and in conformance with all pertinent Federal, State and Local statutes, codes, ordinances, resolutions and other regulations. Vendor will not produce a work product



that violates or infringes on any copyright or patent rights. Vendor shall, without additional compensation, correct or revise any errors or omissions in its work products.

3.3. Permitted or required approval by Delaware of any products or services furnished by Vendor shall not in any way relieve Vendor of responsibility for the professional and technical accuracy and adequacy of its work. Delaware's review, approval, acceptance, or payment for any of Vendor's services herein shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Vendor shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to Delaware caused by Vendor's performance or failure to perform under this Agreement.

3.4. Vendor shall appoint a Project Manager who will manage the performance of services. All of the services specified by this Agreement shall be performed by the Project Manager, or by Vendor's associates and employees under the personal supervision of the Project Manager. The positions anticipated include:

<b>Team Member</b>	<b>Title/Role</b>
LoriAnn Rhoades	Program Manager
Michelle Seymour	Quality Improvement Coach

3.5. Designation of persons for each position is subject to review and approval by Delaware. Should the staff need to be diverted off the project for what are now unforeseeable circumstances, Vendor will notify Delaware immediately and work out a transition plan that is acceptable to both parties, as well as agree to an acceptable replacement plan to fill or complete the work assigned to this project staff position. Replacement staff persons are subject to review and approval by Delaware. If Vendor fails to make a required replacement within 30 days, Delaware may terminate this Agreement for default. Upon receipt of written notice from Delaware that an employee of Vendor is unsuitable to Delaware for good cause, Vendor shall remove such employee from the performance of services and substitute in his/her place a suitable employee.

3.6. Vendor shall furnish to Delaware's designated representative copies of all correspondence to regulatory agencies for review prior to mailing such correspondence.

3.7. Vendor agrees that its officers and employees will cooperate with Delaware in the performance of services under this Agreement and will be available for consultation with Delaware at such reasonable times with advance notice as to not conflict with their other responsibilities.

3.8. Vendor has or will retain such employees as it may need to perform the services required by this Agreement. Such employees shall not be employed by Delaware or any other political subdivision of Delaware.

3.9. Vendor will not use Delaware's name, either express or implied, in any of its advertising or sales materials without Delaware's express written consent.

3.10. The rights and remedies of Delaware provided for in this Agreement are in addition to any other rights and remedies provided by law.

**4. Time Schedule.**

- 4.1. A project schedule- Statement of Work- is included in Appendix A.
- 4.2. Any delay of services or change in sequence of tasks must be approved in writing by Delaware.
- 4.3. In the event that Vendor fails to complete the project or any phase thereof within the time specified in the Contract, or with such additional time as may be granted in writing by Delaware, or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this Agreement or any extensions thereof, Delaware shall suspend the payments scheduled as set forth in Appendix A and Exhibit A.

**5. State Responsibilities.**

- 5.1. In connection with Vendor's provision of the Services, Delaware shall perform those tasks and fulfill those responsibilities specified in the appropriate Appendices.
- 5.2. Delaware agrees that its officers and employees will cooperate with Vendor in the performance of services under this Agreement and will be available for consultation with Vendor at such reasonable times with advance notice as to not conflict with their other responsibilities.
- 5.3. The services performed by Vendor under this Agreement shall be subject to review for compliance with the terms of this Agreement by Delaware's designated representatives. Delaware representatives may delegate any or all responsibilities under the Agreement to appropriate staff members, and shall so inform Vendor by written notice before the effective date of each such delegation.
- 5.4. The review comments of Delaware's designated representatives may be reported in writing as needed to Vendor. It is understood that Delaware's representatives' review comments do not relieve Vendor from the responsibility for the professional and technical accuracy of all work delivered under this Agreement.
- 5.5. Delaware shall, without charge, furnish to or make available for examination or use by Vendor as it may request, any data which Delaware has available, including as examples only and not as a limitation:
  - a. Copies of reports, surveys, records, and other pertinent documents;
  - b. Copies of previously prepared reports, job specifications, surveys, records, ordinances, codes, regulations, other documents, and information related to the services specified by this Agreement.

Vendor shall return any original data provided by Delaware.

- 5.6. Delaware shall assist Vendor in obtaining data on documents from public officers or agencies and from private citizens and business firms whenever such material is necessary for the completion of the services specified by this Agreement.
- 5.7. Vendor will not be responsible for accuracy of information or data supplied by Delaware or other sources to the extent such information or data would be relied upon by a reasonably prudent contractor.
- 5.8. Delaware agrees not to use Vendor's name, either express or implied, in any of its advertising or sales materials. Vendor reserves the right to reuse the nonproprietary data and the analysis of industry-related information in its continuing analysis of the industries covered.

## **6. Work Product.**

- 6.1. All materials, information, documents, and reports, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by Vendor for Delaware relating to the services to be performed hereunder, with the exception of proprietary collateral owned by HealthTeam® Works (vendor subcontractor), shall become the property of Delaware and shall be delivered to Delaware's designated representative upon completion or termination of this Agreement, whichever comes first. Vendor shall not be liable for damages, claims, and losses arising out of any reuse of any work products on any other project conducted by Delaware. Delaware shall have the right to reproduce all documentation supplied pursuant to this Agreement.
- 6.2. Vendor retains all title and interest to the data it furnished and/or generated pursuant to this Agreement. Retention of such title and interest does not conflict with Delaware's rights to the materials, information and documents developed in performing the project. Upon final payment, Delaware shall have a perpetual, nontransferable, non-exclusive paid-up right and license to use, copy, modify and prepare derivative works of all materials in which Vendor retains title, whether individually by Vendor or jointly with Delaware. Any and all source code developed in connection with the services provided will be provided to Delaware, and the aforementioned right and license shall apply to source code. The parties will cooperate with each other and execute such other documents as may be reasonably deemed necessary to achieve the objectives of this Section.
- 6.3. In no event shall Vendor be precluded from developing for itself, or for others, materials that are competitive with the Deliverables, irrespective of their similarity to the Deliverables. In addition, Vendor shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques within the scope of its consulting practice that are used in the course of providing the services.
- 6.4. Notwithstanding anything to the contrary contained herein or in any attachment hereto, any and all intellectual property or other proprietary data owned by Vendor prior to the effective date of this Agreement ("Preexisting Information") shall remain the exclusive

property of Vendor even if such Preexisting Information is embedded or otherwise incorporated into materials or products first produced as a result of this Agreement or used to develop such materials or products. Delaware's rights under this section shall not apply to any Preexisting Information or any component thereof regardless of form or media.

**7. Confidential Information.**

To the extent permissible under 29 *Del. C.* ' 10001, et seq., the parties to this Agreement shall preserve in strict confidence any information, reports or documents obtained, assembled or prepared in connection with the performance of this Agreement.

**8. Warranty.**

8.1. Vendor warrants that its services will be performed in a good and workmanlike manner. Vendor agrees to re-perform any work not in compliance with this warranty brought to its attention within a reasonable time after that work is performed.

8.2. Third-party products within the scope of this Agreement are warranted solely under the terms and conditions of the licenses or other agreements by which such products are governed. With respect to all third-party products and services purchased by Vendor for Delaware in connection with the provision of the Services, Vendor shall pass through or assign to Delaware the rights Vendor obtains from the manufacturers and/or vendors of such products and services (including warranty and indemnification rights), all to the extent that such rights are assignable.

**9. Indemnification; Limitation of Liability.**

9.1. Vendor shall indemnify and hold harmless the State, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of:

- a. the negligence or other wrongful conduct of the Vendor, its agents or employees, or
- b. Vendor's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that
  - i. Vendor shall have been notified promptly in writing by Delaware of any notice of such claim; and
  - ii. Vendor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.

9.2. If Delaware promptly notifies Vendor in writing of a third party claim against Delaware that any Deliverable infringes a copyright or a trade secret of any third party, Vendor will defend such claim at its expense and will pay any costs or damages that may be finally awarded against Delaware. Vendor will not indemnify Delaware, however, if the claim of infringement is caused by:

- a. Delaware's misuse or modification of the Deliverable;
- b. Delaware's failure to use corrections or enhancements made available by Vendor;
- c. Delaware's use of the Deliverable in combination with any product or information not owned or developed by Vendor;
- d. Delaware's distribution, marketing or use for the benefit of third parties of the Deliverable or
- e. Information, direction, specification or materials provided by Client or any third party. If any Deliverable is, or in Vendor's opinion is likely to be, held to be infringing, Vendor shall at its expense and option either
  - i. Procure the right for Delaware to continue using it,
  - ii. Replace it with a non-infringing equivalent,
  - iii. Modify it to make it non-infringing.

The foregoing remedies constitute Delaware's sole and exclusive remedies and Vendor's entire liability with respect to infringement.

#### **10. Employees.**

- 10.1. Vendor has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by Vendor in the performance of the services hereunder; provided, however, that it will, subject to scheduling and staffing considerations, attempt to honor Delaware's request for specific individuals.
- 10.2. Except as the other party expressly authorizes in writing in advance, neither party shall solicit, offer work to, employ, or contract with, whether as a partner, employee or independent contractor, directly or indirectly, any of the other party's Personnel during their participation in the services or during the twelve (12) months thereafter. For purposes of this Section, Personnel includes any individual or company a party employs as a partner, employee or independent contractor and with which a party comes into direct contact in the course of the services.
- 10.3. Possession of a Security Clearance, as issued by the Delaware Department of Public Safety, may be required of any employee of Vendor who will be assigned to this project.

#### **11. Independent Contractor.**

- 11.1. It is understood that in the performance of the services herein provided for, Vendor shall be, and is, an independent contractor, and is not an agent or employee of Delaware

and shall furnish such services in its own manner and method except as required by this Agreement. Vendor shall be solely responsible for, and shall indemnify, defend and save Delaware harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.

- 11.2. Vendor acknowledges that Vendor and any subcontractors, agents or employees employed by Vendor shall not, under any circumstances, be considered employees of Delaware, and that they shall not be entitled to any of the benefits or rights afforded employees of Delaware, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits. Delaware will not provide or pay for any liability or medical insurance, retirement contributions or any other benefits for or on behalf of Delaware or any of its officers, employees or other agents.
- 11.3. Vendor shall be responsible for providing liability insurance for its personnel.
- 11.4. As an independent contractor, Vendor has no authority to bind or commit Delaware. Nothing herein shall be deemed or construed to create a joint venture, partnership, fiduciary or agency relationship between the parties for any purpose.

## **12. Suspension.**

- 12.1. Delaware may suspend performance by Vendor under this Agreement for such period of time as Delaware, at its sole discretion, may prescribe by providing written notice to Vendor at least 30 working days prior to the date on which Delaware wishes to suspend. Upon such suspension, Delaware shall pay Vendor its compensation, based on the percentage of the project completed and earned until the effective date of suspension, less all previous payments. Vendor shall not perform further work under this Agreement after the effective date of suspension. Vendor shall not perform further work under this Agreement after the effective date of suspension until receipt of written notice from Delaware to resume performance.
- 12.2. In the event Delaware suspends performance by Vendor for any cause other than the error or omission of the Vendor, for an aggregate period in excess of 30 days, Vendor shall be entitled to an equitable adjustment of the compensation payable to Vendor under this Agreement to reimburse Vendor for additional costs occasioned as a result of such suspension of performance by Delaware based on appropriated funds and approval by Delaware.

## **13. Termination.**

- 13.1. This Agreement may be terminated in whole or in part by either party in the event of substantial failure of the other party to fulfill its obligations under this Agreement through no fault of the terminating party; but only after the other party is given:
  - a. Not less than 20 calendar days written notice of intent to terminate; and

- b. An opportunity for consultation with the terminating party prior to termination.
- 13.2. This Agreement may be terminated in whole or in part by Delaware for its convenience, but only after Vendor is given:
- a. Not less than 20 calendar days written notice of intent to terminate; and
  - b. An opportunity for consultation with Delaware prior to termination.
- 13.3. This Agreement may be terminated in whole or in part by Vendor for its convenience, but only after Delaware is given:
- a. Not less than 20 calendar days written notice of intent to terminate; and
  - b. An opportunity for consultation with Vendor prior to termination.
- 13.4. If termination for default is effected by Delaware or Vendor, Delaware will pay Vendor that portion of the compensation which has been earned as of the effective date of termination, but:
- a. No amount shall be allowed for anticipated profit on performed or unperformed services or other work, and
  - b. Any payment due to Vendor at the time of termination may be adjusted to the extent of any additional costs occasioned to Delaware by reason of Vendor's default.
  - c. Upon termination for default, Delaware may take over the work and prosecute the same to completion by agreement with another party or otherwise. In the event Vendor shall cease conducting business, Delaware shall have the right to make an unsolicited offer of employment to any employees of Vendor assigned to the performance of the Agreement, notwithstanding the provisions of Section 10.2.
- 13.5. If after termination for failure of Vendor to fulfill contractual obligations it is determined that Vendor has not so failed, the termination shall be deemed to have been effected for the convenience of Delaware.
- 13.6. The rights and remedies of Delaware and Vendor provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.
- 13.7. Gratuities.
- a. Delaware may, by written notice to Vendor, terminate this Agreement if it is found after notice and hearing by Delaware that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Vendor or any agent or representative of Vendor to any officer or employee of Delaware with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this Agreement.

- b. In the event this Agreement is terminated as provided in 13.6.a hereof, Delaware shall be entitled to pursue the same remedies against Vendor it could pursue in the event of a breach of this Agreement by Vendor.
- c. The rights and remedies of Delaware provided in Section 13.6 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

**14. Severability.**

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

**15. Assignment; Subcontracts.**

- 15.1. Any attempt by Vendor to assign or otherwise transfer any interest in this Agreement without the prior written consent of Delaware shall be void. Such consent shall not be unreasonably withheld.
- 15.2. Services specified by this Agreement shall not be subcontracted by Vendor, without prior written approval of Delaware.
- 15.3. Approval by Delaware of Vendor's request to subcontract or acceptance of or payment for subcontracted work by Delaware shall not in any way relieve Vendor of responsibility for the professional and technical accuracy and adequacy of the work. All subcontractors shall adhere to all applicable provisions of this Agreement.
- 15.4. Vendor shall be and remain liable for all damages to Delaware caused by negligent performance or non-performance of work under this Agreement by Vendor, its subcontractor or its sub-subcontractor.
- 15.5. The compensation due shall not be affected by Delaware's approval of the Vendor's request to subcontract.

**16. Force Majeure.**

Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.

**17. Non-Appropriation of Funds.**



17.1. Validity and enforcement of this Agreement is subject to appropriations by the General Assembly of the specific funds necessary for contract performance. Should such funds not be so appropriated Delaware may immediately terminate this Agreement, and absent such action this Agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available, at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

17.2. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate and Delaware's obligations under it shall be extinguished at the end of the fiscal year in which Delaware fails to appropriate monies for the ensuing fiscal year sufficient for the payment of all amounts which will then become due.

**18. State of Delaware Business License.**

Vendor and all subcontractors represent that they are properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* ' 2502.

**19. Complete Agreement.**

19.1. This agreement and its Appendices shall constitute the entire agreement between Delaware and Vendor with respect to the subject matter of this Agreement and shall not be modified or changed without the express written consent of the parties. The provisions of this agreement supersede all prior oral and written quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement.

19.2. If the scope of any provision of this Agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the Agreement shall not thereby fail, but the scope of such provision shall be curtailed only to the extent necessary to conform to the law.

19.3. Vendor may not order any product requiring a purchase order prior to Delaware's issuance of such order. Each Appendix, except as its terms otherwise expressly provide, shall be a complete statement of its subject matter and shall supplement and modify the terms and conditions of this Agreement for the purposes of that engagement only. No other agreements, representations, warranties or other matters, whether oral or written, shall be deemed to bind the parties hereto with respect to the subject matter hereof.

**20. Miscellaneous Provisions.**

20.1. In performance of this Agreement, Vendor shall comply with all applicable federal, state and local laws, ordinances, codes and regulations. Vendor shall solely bear the costs of permits and other relevant costs required in the performance of this Agreement.

- 20.2. Neither this Agreement nor any appendix may be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.
- 20.3. The delay or failure by either party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.
- 20.4. Vendor covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Vendor further covenants, to its knowledge and ability, that in the performance of said services no person having any such interest shall be employed.
- 20.5. Vendor acknowledges that Delaware has an obligation to ensure that public funds are not used to subsidize private discrimination. Vendor recognizes that if they refuse to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, Delaware may declare Vendor in breach of the Agreement, terminate the Agreement, and designate Vendor as non-responsible.
- 20.6. Vendor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, Delaware shall have the right to annul this contract without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.
- 20.7. This Agreement was drafted with the joint participation of both parties and shall be construed neither against nor in favor of either, but rather in accordance with the fair meaning thereof.
- 20.8. Vendor shall maintain all public records, as defined by 29 *Del. C.* ' 502(1), relating to this Agreement and its deliverables for the time and in the manner specified by the Delaware Division of Archives, pursuant to the Delaware Public Records Law, 29 *Del. C.* Ch. 5. During the term of this Agreement, authorized representatives of Delaware may inspect or audit Vendor' performance and records pertaining to this Agreement at the Vendor business office during normal business hours.

## 21. Insurance.

21.1. Vendor shall maintain the following insurance during the term of this Agreement:

- a. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, **and**

- b. Comprehensive General Liability - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate, **and**
  - c. Medical/Professional Liability - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate; or
  - d. Miscellaneous Errors and Omissions - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate, or
  - e. Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.
- 21.2. Should any of the above described policies be cancelled before expiration date thereof, notice will be delivered in accordance with the policy provisions..
- 21.3. Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the contract number stated herein, shall be filed with the State. The certificate holder is as follows:

**Delaware Health Care Commission  
Margaret O'Neill Building  
410 Federal Street, Suite 7  
Dover, DE 19901  
Helen Arthur, Director of Planning & Policy**

- 21.4. In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.

**22. Assignment of Antitrust Claims.**

As consideration for the award and execution of this contract by the State, Vendor hereby grants, conveys, sells, assigns, and transfers to Delaware all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, relating to the particular goods or services purchased or acquired by the State pursuant to this contract.

**23. Governing Law.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. Vendor consents to jurisdiction venue in the State of Delaware.

**24. Notices.**

Any and all notices required by the provisions of this Agreement shall be in writing and shall be mailed, certified or registered mail, return receipt requested. All notices shall be sent to the following addresses:

DELAWARE:

**Delaware Health Care Commission  
Margaret O'Neill Building  
410 Federal Street, Suite 7  
Dover, DE 19901  
Attn: Eschalla Clarke, Senior Social Services Administrator**

VENDOR:

**Medical Society of Delaware/MedNet  
900 Prides Crossing  
Newark, DE 19713  
Attn: Lori Ann Rhoads**

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

For the Contractor:

For the Delaware Health Care Commission:

Signature on File

Signature on File

Name Mark A. Meister

Bettina Tweardy Riveros, Esq.  
Chairperson

Executive Director

11/5/15  
Date

Title

11.3.15  
Date

For Delaware Health and Social Services:

Signature on File

Jmb Rita Landgraf  
Secretary

11/9/15  
Date

Approved as to form by:  
Signature on File

Laura Howard, Executive Director  
11/12/15

Date

**APPENDIX A**  
**STATEMENT OF WORK**

The following information are operational details from the HSS-15-030 Request for Proposal (RFP). This is meant to highlight essential expectations for this project; however, does not mitigate the full RFP content.

**A. SERVICES**

**Medical Society of Delaware/MedNet** agrees to provide the following three (3) services in accordance with the Request for Proposal:

**1. Pre-transformation assessment**

Conduct an initial assessment of each primary care practice site to identify current capabilities and progress against the transformation milestones. Across the landscape of primary care practices in Delaware, HCC anticipates a range of readiness and starting states for practice transformation. Therefore, vendors should conduct an initial, rapid, standardized assessment of the current needs of each practice site. Vendors should then use the outputs of the assessment to develop a tailored curriculum for each site (described further in #2 below). Assessments should identify strengths and gaps in workforce, infrastructure, and workflows as they relate to capabilities and transformation milestones, prioritizing areas for improvement.

**2. Practice transformation support curriculum**

Vendors should develop and execute a standard curriculum that can be tailored for each primary care practice site based on the needs identified in the pre-transformation assessment. Vendors should provide a standard curriculum for each of the first and second years of transformation, including frequency and structure of learning activities. The curriculum may include content structured through the following modalities:

- **Learning collaboratives:** Vendors should establish and facilitate peer-to-peer learning collaboratives among practices to allow PCPs to learn from one another's experience. To enable learning and adoption at the practice level, practice transformation vendors should create mechanisms for providers to share best practices, to collaborate on common problems, and to adopt and refine evidence-informed protocols. HCC expects vendors to hold learning collaboratives quarterly. To encourage practice participation and maximize learning opportunities, vendors should structure collaboratives around practices of similar size and/or geography. Vendors should propose 2-year learning collaborative curriculum that aligned with practice transformation support. HCC expects that DCHI may provide additional recommendations on learning collaboratives over the coming months and that vendors will incorporate these recommendations;
- **Large format in-person trainings:** The curriculum may include large-format conferences, trainings, or symposia;
- **Live webinars:** The curriculum may include live, hosted webinars with live Q&A;
- **Recorded trainings:** The curriculum may include recorded trainings available to providers online on a self-serve basis; and
- **On-site coaching:** The curriculum may include on-site coaching for practice staff, e.g., one-on-one coaching sessions with a practice manager, a provider champion, and/or a small group of practice staff. The curriculum should be focused on building capabilities for effective

population health management in a way that reduces the rate of growth in total cost of care while improving health, quality of care, and patient experience going beyond simply helping practices to meet the transformation milestones as defined in DCHI Consensus Paper.

### **3. Semi-annual assessment against milestones**

For each participating practice site, vendors should conduct an assessment of progress towards each practice transformation milestone. Assessments should be conducted every 6 months, noting milestones that have been achieved and any upcoming milestones that a practice site may be at risk of missing.

## **B. REPORTING REQUIREMENTS**

Vendors shall be responsible for providing the following reports in a format provided by HCC- including content requirements. At its discretion, HCC may share vendor reports with the Board of the DCHI.

1. **Start-up:** The vendor shall provide an initial report describing the vendor's completion of start-up activities, including, but not limited to, hiring of new staff, development of provider outreach and enrollment plans, and readiness to begin engaging with providers. **The vendor shall submit a report on its provider outreach and enrollment approach within thirty (30) days, and a final start-up report with the remaining information, including proposed metrics for demonstrating progress and effectiveness, within sixty (60) days of the notice of contract award.**

2. **Monthly progress:** The vendor shall provide monthly progress reports to HCC, which may be shared with the DCHI Board of Directors. The progress report must include, but is not limited to, the following information:

- 1) list of practice sites enrolled;
- 2) current status of support for each site (e.g., pre-assessment transformation complete, tailored curriculum developed);
- 3) vendor activity for that month; and
- 4) any operating issues related to providing support, including, but not limited to, vendor capacity constraints or challenges with provider participation.

Vendor should propose a set of metrics to demonstrate progress and measures overall effectiveness and report on these to the HCC in these monthly progress reports.

3. **Practice participation:** The vendor shall report on a quarterly basis the participation by each practice site in transformation activities, including but not limited to, **practice enrollment, attendance at onsite coaching sessions, completion of online webinars, and participation in learning collaboratives.**

4. **Risks:** The vendor shall submit a Risks Report on "at-risk" practices that are unlikely to achieve some or all milestones on the required timeline. For each at-risk practice site, the vendor shall submit a corrective action plan jointly developed with the practice site. **The Risks Report shall be submitted quarterly.** The vendor shall include an addendum to the monthly progress report for all practice sites that have a corrective action plan describing progress against the plan.

5. **Semi-annual assessment:** The vendor shall submit a report every **six 6 months** upon completing an assessment of progress towards milestones at each practice site in accordance with the Delaware Center for Health Innovation Primary Care Practice Transformation Consensus Paper.. The report shall describe the milestones that have been achieved by each practice site and provide summary statistics on the number of practice sites achieving each milestone for each enrollment wave.

**Quantitative Transformation Milestones will be used to measure each practices progress on population health management** (From the DCHI Practice Transformation Consensus Paper, pg. 9)

<b>6 months</b>	<b>12 months</b>	<b>18 months</b>	<b>24 months</b>
Identify the 5% of panel at the highest risk and highest priority for care coordination (6 months)	Supply voice-to-voice coverage to panel members 24/7 (e.g., patient can speak with a licensed health professional at any time) (12 months).	Implement a process for contacting patients who did not receive appropriate preventive care (18 months).	Implement a multi-disciplinary team working with highest-risk patients to develop care plans (24 months).
Provide same-day appointments and/or after-hours access to care (6 months).	Document sourcing and implementation plan for launching a multidisciplinary team working with the highest-risk patients to develop a care plan (12 months).		Document a plan for patients with behavioral health needs (24 months).
Implement a process for following up after hospital discharge (6 months)	Document plan to reduce emergency room overutilization (12 months).		

**EXHIBIT A**  
**BUDGET DESCRIPTION**  
**MIX AND INTENSITY OF REQUIRED SERVICES**

**A. AGREEMENTS AND ASSUMPTIONS**

**Medical Society of Delaware/MedNet** will provide Practice Transformation Services (PTS) for the Delaware Health Care Commission, in collaboration with the Delaware Center for Health Innovation (DCHI) to support primary care practice transformation in Delaware. The funding to support the PTS project is the result of a State Innovation Model (SIM) Test grant from the Center for Medicare and Medicaid Innovation (CMMI). Vendors' participating in this project must be aware that collaboration with the CMMI federal agency may require occasional revisions to the certain aspects of the State of Delaware's practice transformation services efforts. As such, a few elements are agreeable to all parties:

1. As indicated in the RFP, vendor payments will be paid on a per site per month (PSPM) basis for each practice enrolled in practice transformation efforts with a vendor. PSPM is subject to successful vendor performance.

**Total payments under this contract shall not exceed \$1,200,000 which is based on a set budget of \$12,000 per practice site per year inclusive of overhead and management costs.**

2. Medical Society of Delaware/MedNet agrees to work in collaboration with HCC, the DCHI and the HCC's state-led evaluation vendor (selection pending) to meet Delaware's evaluation requirements of the federal CMMI Cooperative Agreement program.
3. Medical Society of Delaware/MedNet agrees to propose a set of metrics, to be approved by the HCC, to demonstrate progress and measure overall effectiveness. These metrics will be reported via monthly progress reports which may be shared with the DCHI.
4. Each vendor selected under this RFP agrees to participate in one kick-off and subsequent quarterly Practice Transformation vendor meetings. Attendance may be required in person or may be conducted via conference call. These will be scheduled by the HCC as required to promote collaboration streamline processes for the project.
5. Each monthly invoice must be accompanied by monthly progress reports as outlined in Appendix A. Purchase Order numbers must be documented on all invoices.



**BASIC curriculum**

This curriculum should be targeted to practices that are at the beginning of the transformation process as described in the DCHI Consensus Paper (i.e., do not meet all or most of the transformation milestones).

Modality of service	Description	# units per PCP site	Cost per unit	Cost per PCP site
Pre-transformation assessment	Initial assessment to identify current capabilities and progress against transformation milestones, used to tailor curriculum	8 hours of initial assessment	\$ 80 per hour	\$ 640 per site per year of support
Semi-annual assessment	Semi-annual assessment of progress towards each practice transformation milestone	3 hours per semi-annual assessment	\$ 80 per hour	\$ 240 per site per year of support
Learning collaboratives	Small-group meetings of 5-15 practice sites, represented by office managers	4 hours of meetings per year of support	\$ 210 per hour	\$ 840 per site per year of support
Large-format in-person training	Large-format trainings, conferences or symposia	4 hours of large-format training	\$ 210 per hour	\$ 840 per site per year of support
Live webinars	Hosted webinars with live Q&A	1.5 hours of live hosted webinars	\$ 80 per hour of hosted webinars	\$ 120 per site per year of support
Recorded online trainings (self-serve)	Self-serve, recorded webinars	3 recorded webinars	\$ 135 per webinar	\$ 405 per site per year of support
On-site coaching	One-on-one coaching with practice manager, physician champion, or small group at the practice site	110 hours of on-site coaching per year of support	\$ 80 per hour	\$ 8,800 per site per year of support
Other				\$ _____ per site per year of support
<b>Total per PCP site per year of support</b>				<b>\$ 11,885.00 per site per year of support</b>

**Advanced curriculum:**

This curriculum should be targeted to practices that have completed transformation for Milestone #1 through Milestone #4 as described in the DCHI Consensus Paper.

Modality of service	Description	# units per PCP site	Cost per unit	Cost per PCP site
Pre-transformation assessment	Initial assessment to identify current capabilities and progress against transformation milestones, used to tailor curriculum	8 hours of initial assessment	\$ 80 per hour	\$ 640 per site per year of support
Semi-annual assessment	Semi-annual assessment of progress towards each practice transformation milestone	3 hours per semi-annual assessment	\$ 80 per hour	\$ 240 per site per year of support
Learning collaboratives	Small-group meetings of 5-15 practice sites, represented by office managers	4 hours of meetings per year of support	\$ 210 per hour	\$ 840 per site per year of support
Large-format in-person training	Large-format trainings, conferences or symposia	4 hours of large-format training	\$ 210 per hour	\$ 840 per site per year of support
Live webinars	Hosted webinars with live Q&A	1.5 hours of live hosted webinars	\$ 80 per hour of hosted webinars	\$ 120 per site per year of support
Recorded online trainings (self-serve)	Self-serve, recorded webinars	3 recorded webinars	\$ 135 per webinar	\$ 405 per site per year of support
On-site coaching	One-on-one coaching with practice manager, physician champion, or small group at the practice site	110 hours of on-site coaching per year of support	\$ 80 per hour	\$ 8,800 per site per year of support
Other				\$ _____ per site per year of support
<b>Total per PCP site per year of support</b>				<b>\$ 11,885.00 per site per year of support</b>

**APPENDIX B**

REQUEST FOR PROPOSAL HSS-15-030

BETTINA TWEARDY RIVEROS, ESQ., CHAIR  
LAURA HOWARD, EXECUTIVE DIRECTOR



STATE OF DELAWARE  
**DELAWARE HEALTH CARE COMMISSION**  
MARGARET O'NEILL BUILDING  
410 FEDERAL STREET, SUITE 7  
TELEPHONE: (302) 739-2730  
FAX: (302) 739-6927  
www.dhss.delaware.gov/dhcc

THEODORE W. BECKER, JR.  
THOMAS J. COOK  
A. RICHARD HEFFRON  
RITA LANDGRAF  
JANICE L. LEE, MD  
KATHLEEN S. MATT, PhD  
JANICE E. NEVIN, MD, MPH  
JENNIFER RANJI  
DENNIS ROCHFORD  
KAREN WELDIN STEWART

**PROFESSIONAL SERVICES AGREEMENT**  
**for**  
**PATIENT TRANSFORMATION SERVICES**  
**RFP # HSS-15-030**

This Professional Services Agreement ("Agreement") is entered into as of November 9, 2015 by the parties, (Effective Date) and will end on November 9, 2016 unless specifically extended by an amendment signed by all parties to the Contract, by and between the State of Delaware, Department of Health and Social Services, Delaware Health Care Commission ("Commission"), and Remedy HealthCare Consulting LLC, (the "Vendor"), with offices at PO Box 484035, Kansas City, MO 64145.

WHEREAS, Delaware desires to obtain certain services to support primary care practice transformation in Delaware as described in the HSS-15-030 request for proposal via three (3) explicit services of: 1) pre-transformation assessment; 2) practice transformation support curriculum; and 3) semi-annual assessment against milestones.

WHEREAS, Vendor desires to provide such services to Delaware on the terms set forth below;

WHEREAS, Delaware and Vendor represent and warrant that each party has full right, power and authority to enter into and perform under this Agreement;

FOR AND IN CONSIDERATION OF the premises and mutual agreements herein, Delaware and Vendor agree as follows:

**1. Services.**

- 1.1. Vendor shall perform for Delaware the services specified in the Appendices to this Agreement, attached hereto and made a part hereof.
- 1.2. Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) Delaware's request for proposals, attached hereto as Appendix B; and (c) Vendor's response to the

request for proposals, attached hereto as Exhibit B. The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

- 1.3. Delaware may, at any time, by written order, make changes in the scope of this Agreement and in the services or work to be performed. No services for which additional compensation may be charged by Vendor shall be furnished, without the written authorization of Delaware. When Delaware desires any addition or deletion to the deliverables or a change in the Services to be provided under this Agreement, it shall notify Vendor, who shall then submit to Delaware a "Change Order" for approval authorizing said change. The Change Order shall state whether the change shall cause an alteration in the price or the time required by Vendor for any aspect of its performance under this Agreement. Pricing of changes shall be consistent with those established within this Agreement.
  - 1.4. Vendor will not be required to make changes to its scope of work that result in Vendor's costs exceeding the current unencumbered budgeted appropriations for the services. Any claim of either party for an adjustment under Section 1 of this Agreement shall be asserted in the manner specified in the writing that authorizes the adjustment.
- 2. Payment for Services and Expenses.**
- 2.1. The term of the initial contract shall be from November 9, 2015 through November 9, 2016.
  - 2.2. Delaware will pay Vendor for the performance of services described in Appendix A, Statement of Work. The fee will be paid in accordance with the payment schedule attached hereto as part of Exhibit A.
  - 2.3. Delaware's obligation to pay Vendor for the performance of services described in Appendix A, Statement of Work will not exceed \$1,200,000 which is based on the amount of \$12,000 per site annually as indicated in Exhibit A. It is expressly understood that the work defined in the appendices to this Agreement must be completed by Vendor and it shall be Vendor's responsibility to ensure that hours and tasks are properly budgeted so that all services are completed for the agreed upon fixed fee. Delaware's total liability for all charges for services that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in Delaware's purchase order(s) to Vendor.
  - 2.4. Vendor shall submit monthly invoices to Delaware in sufficient detail to support the services provided during the previous month. Delaware agrees to pay those invoices within thirty (30) days of receipt. In the event Delaware disputes a portion of an invoice, Delaware agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide Vendor a detailed statement of Delaware's position on the disputed portion of the invoice within thirty (30) days of receipt. Delaware's failure to pay any amount of an invoice that is not the subject of a good-faith dispute within thirty (30) days of receipt shall entitle Vendor to charge interest on the overdue portion at the lower of 1.0% per month. All payments should be sent to the Vendor's identified

address on record with the State of Delaware's Division of Accounting as identified in the completion of the electronic W-9.

- 2.5. Unless provided otherwise in an Appendix, all expenses incurred in the performance of the services are to be paid by Vendor. If an Appendix specifically provides for expense reimbursement, Vendor shall be reimbursed only for reasonable expenses incurred by Vendor in the performance of the services, including, but not necessarily limited to, travel and lodging expenses, communications charges, and computer time and supplies.
- 2.6. Delaware is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from any related deficiency, which may become due and payable as a consequence of this Agreement.
- 2.7. Delaware shall subtract from any payment made to Vendor all damages, costs and expenses caused by Vendor's negligence, resulting from or arising out of errors or omissions in Vendor's work products, which have not been previously paid to Vendor.
- 2.8. Invoices shall be submitted to:

**Delaware Health Care Commission  
Margaret O'Neill Building  
410 Federal Street, Suite 7  
Dover, DE 19901  
Attn: Eschalla Clarke, Senior Social Services Administrator**

### **3. Responsibilities of Vendor.**

- 3.1. Vendor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by Vendor, its subcontractors and its and their principals, officers, employees and agents under this Agreement. In performing the specified services, Vendor shall follow practices consistent with generally accepted professional and technical standards. Vendor shall be responsible for ensuring that all services, products and deliverables furnished pursuant to this Agreement comply with the standards promulgated by the Department of Technology and Information ("DTI") published at <http://dti.delaware.gov/>, and as modified from time to time by DTI during the term of this Agreement. If any service, product or deliverable furnished pursuant to this Agreement does not conform to DTI standards, Vendor shall, at its expense and option either (1) replace it with a conforming equivalent or (2) modify it to conform to DTI standards. Vendor shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to Delaware caused by Vendor's failure to ensure compliance with DTI standards.
- 3.2. It shall be the duty of the Vendor to assure that all products of its effort are technically sound and in conformance with all pertinent Federal, State and Local statutes, codes, ordinances, resolutions and other regulations. Vendor will not produce a work product

that violates or infringes on any copyright or patent rights. Vendor shall, without additional compensation, correct or revise any errors or omissions in its work products.

- 3.3. Permitted or required approval by Delaware of any products or services furnished by Vendor shall not in any way relieve Vendor of responsibility for the professional and technical accuracy and adequacy of its work. Delaware's review, approval, acceptance, or payment for any of Vendor's services herein shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Vendor shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to Delaware caused by Vendor's performance or failure to perform under this Agreement.
- 3.4. Vendor shall appoint a Project Manager who will manage the performance of services. All of the services specified by this Agreement shall be performed by the Project Manager, or by Vendor's associates and employees under the personal supervision of the Project Manager. The positions anticipated include:

<b>Team Member</b>	<b>Title /Role</b>
James Gill, MD, MPH	Physician Leadership
Sheila Richmeier, MS, RN, FACMPE	President, Remedy HealthCare Consulting
Lynn Fahey, PhD	SME
Noelle King-Whitlow, MS, MHSA, RN, CPHQ	SME
Shelly Phinney, MBA	SME
Chuck Moses, MBA, MSHA, FACMPE, CQMOE	SME
Bill Richard	Community Liaison
Susan Myers, MA, MPH	Projects Control consultant
Brian S. Gould, MD	SME
Jennifer Genua-McDaniel	SME
Christine Johnson, PhD	SME

- 3.5. Designation of persons for each position is subject to review and approval by Delaware. Should the staff need to be diverted off the project for what are now unforeseeable circumstances, Vendor will notify Delaware immediately and work out a transition plan that is acceptable to both parties, as well as agree to an acceptable replacement plan to fill or complete the work assigned to this project staff position. Replacement staff persons are subject to review and approval by Delaware. If Vendor fails to make a required replacement within 30 days, Delaware may terminate this Agreement for default. Upon receipt of written notice from Delaware that an employee of Vendor is unsuitable to Delaware for good cause, Vendor shall remove such employee from the performance of services and substitute in his/her place a suitable employee.
- 3.6. Vendor shall furnish to Delaware's designated representative copies of all correspondence to regulatory agencies for review prior to mailing such correspondence.
- 3.7. Vendor agrees that its officers and employees will cooperate with Delaware in the performance of services under this Agreement and will be available for consultation

with Delaware at such reasonable times with advance notice as to not conflict with their other responsibilities.

- 3.8. Vendor has or will retain such employees as it may need to perform the services required by this Agreement. Such employees shall not be employed by Delaware or any other political subdivision of Delaware.
- 3.9. Vendor will not use Delaware's name, either express or implied, in any of its advertising or sales materials without Delaware's express written consent.
- 3.10. The rights and remedies of Delaware provided for in this Agreement are in addition to any other rights and remedies provided by law.

#### **4. Time Schedule.**

- 4.1. A project schedule is included in Appendix A.
- 4.2. Any delay of services or change in sequence of tasks must be approved in writing by Delaware.
- 4.3. In the event that Vendor fails to complete the project or any phase thereof within the time specified in the Contract, or with such additional time as may be granted in writing by Delaware, or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this Agreement or any extensions thereof, Delaware shall suspend the payments scheduled as set forth in Appendix A and Exhibit A.

#### **5. State Responsibilities.**

- 5.1. In connection with Vendor's provision of the Services, Delaware shall perform those tasks and fulfill those responsibilities specified in the appropriate Appendices.
- 5.2. Delaware agrees that its officers and employees will cooperate with Vendor in the performance of services under this Agreement and will be available for consultation with Vendor at such reasonable times with advance notice as to not conflict with their other responsibilities.
- 5.3. The services performed by Vendor under this Agreement shall be subject to review for compliance with the terms of this Agreement by Delaware's designated representatives. Delaware representatives may delegate any or all responsibilities under the Agreement to appropriate staff members, and shall so inform Vendor by written notice before the effective date of each such delegation.
- 5.4. The review comments of Delaware's designated representatives may be reported in writing as needed to Vendor. It is understood that Delaware's representatives' review comments do not relieve Vendor from the responsibility for the professional and technical accuracy of all work delivered under this Agreement.



5.5. Delaware shall, without charge, furnish to or make available for examination or use by Vendor as it may request, any data which Delaware has available, including as examples only and not as a limitation:

- a. Copies of reports, surveys, records, and other pertinent documents;
- b. Copies of previously prepared reports, job specifications, surveys, records, ordinances, codes, regulations, other documents, and information related to the services specified by this Agreement.

Vendor shall return any original data provided by Delaware.

5.6. Delaware shall assist Vendor in obtaining data on documents from public officers or agencies and from private citizens and business firms whenever such material is necessary for the completion of the services specified by this Agreement.

5.7. Vendor will not be responsible for accuracy of information or data supplied by Delaware or other sources to the extent such information or data would be relied upon by a reasonably prudent contractor.

5.8. Delaware agrees not to use Vendor's name, either express or implied, in any of its advertising or sales materials. Vendor reserves the right to reuse the nonproprietary data and the analysis of industry-related information in its continuing analysis of the industries covered.

## 6. **Work Product.**

6.1. All materials, information, documents, and reports, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by Vendor for Delaware relating to the services to be performed hereunder shall become the property of Delaware and shall be delivered to Delaware's designated representative upon completion or termination of this Agreement, whichever comes first. Vendor shall not be liable for damages, claims, and losses arising out of any reuse of any work products on any other project conducted by Delaware. Delaware shall have the right to reproduce all documentation supplied pursuant to this Agreement.

6.2. Vendor retains all title and interest to the data it furnished and/or generated pursuant to this Agreement. Retention of such title and interest does not conflict with Delaware's rights to the materials, information and documents developed in performing the project. Upon final payment, Delaware shall have a perpetual, nontransferable, non-exclusive paid-up right and license to use, copy, modify and prepare derivative works of all materials in which Vendor retains title, whether individually by Vendor or jointly with Delaware. Any and all source code developed in connection with the services provided will be provided to Delaware, and the aforementioned right and license shall apply to source code. The parties will cooperate with each other and execute such other documents as may be reasonably deemed necessary to achieve the objectives of this Section.

- 6.3. In no event shall Vendor be precluded from developing for itself, or for others, materials that are competitive with the Deliverables, irrespective of their similarity to the Deliverables. In addition, Vendor shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques within the scope of its consulting practice that are used in the course of providing the services.
- 6.4. Notwithstanding anything to the contrary contained herein or in any attachment hereto, any and all intellectual property or other proprietary data owned by Vendor prior to the effective date of this Agreement ("Preexisting Information") shall remain the exclusive property of Vendor even if such Preexisting Information is embedded or otherwise incorporated into materials or products first produced as a result of this Agreement or used to develop such materials or products. Delaware's rights under this section shall not apply to any Preexisting Information or any component thereof regardless of form or media.

## **7. Confidential Information.**

To the extent permissible under 29 *Del. C.* ' 10001, et seq., the parties to this Agreement shall preserve in strict confidence any information, reports or documents obtained, assembled or prepared in connection with the performance of this Agreement.

## **8. Warranty.**

- 8.1. Vendor warrants that its services will be performed in a good and workmanlike manner. Vendor agrees to re-perform any work not in compliance with this warranty brought to its attention within a reasonable time after that work is performed.
- 8.2. Third-party products within the scope of this Agreement are warranted solely under the terms and conditions of the licenses or other agreements by which such products are governed. With respect to all third-party products and services purchased by Vendor for Delaware in connection with the provision of the Services, Vendor shall pass through or assign to Delaware the rights Vendor obtains from the manufacturers and/or vendors of such products and services (including warranty and indemnification rights), all to the extent that such rights are assignable.

## **9. Indemnification; Limitation of Liability.**

- 9.1. Vendor shall indemnify and hold harmless the State, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of:
  - a. the negligence or other wrongful conduct of the Vendor, its agents or employees, or
  - b. Vendor's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that
    - i. Vendor shall have been notified promptly in writing by Delaware of any notice of such claim; and

- ii. Vendor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.

9.2. If Delaware promptly notifies Vendor in writing of a third party claim against Delaware that any Deliverable infringes a copyright or a trade secret of any third party, Vendor will defend such claim at its expense and will pay any costs or damages that may be finally awarded against Delaware. Vendor will not indemnify Delaware, however, if the claim of infringement is caused by:

- a. Delaware's misuse or modification of the Deliverable;
- b. Delaware's failure to use corrections or enhancements made available by Vendor;
- c. Delaware's use of the Deliverable in combination with any product or information not owned or developed by Vendor;
- d. Delaware's distribution, marketing or use for the benefit of third parties of the Deliverable or
- e. Information, direction, specification or materials provided by Client or any third party. If any Deliverable is, or in Vendor's opinion is likely to be, held to be infringing, Vendor shall at its expense and option either
  - i. Procure the right for Delaware to continue using it,
  - ii. Replace it with a non-infringing equivalent,
  - iii. Modify it to make it non-infringing.

The foregoing remedies constitute Delaware's sole and exclusive remedies and Vendor's entire liability with respect to infringement.

## 10. **Employees.**

10.1. Vendor has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by Vendor in the performance of the services hereunder; provided, however, that it will, subject to scheduling and staffing considerations, attempt to honor Delaware's request for specific individuals.

10.2. Except as the other party expressly authorizes in writing in advance, neither party shall solicit, offer work to, employ, or contract with, whether as a partner, employee or independent contractor, directly or indirectly, any of the other party's Personnel during their participation in the services or during the twelve (12) months thereafter. For purposes of this Section, Personnel includes any individual or company a party employs as a partner, employee or independent contractor and with which a party comes into direct contact in the course of the services.

10.3. Possession of a Security Clearance, as issued by the Delaware Department of Public Safety, may be required of any employee of Vendor who will be assigned to this project.

#### **11. Independent Contractor.**

11.1. It is understood that in the performance of the services herein provided for, Vendor shall be, and is, an independent contractor, and is not an agent or employee of Delaware and shall furnish such services in its own manner and method except as required by this Agreement. Vendor shall be solely responsible for, and shall indemnify, defend and save Delaware harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.

11.2. Vendor acknowledges that Vendor and any subcontractors, agents or employees employed by Vendor shall not, under any circumstances, be considered employees of Delaware, and that they shall not be entitled to any of the benefits or rights afforded employees of Delaware, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits. Delaware will not provide or pay for any liability or medical insurance, retirement contributions or any other benefits for or on behalf of Delaware or any of its officers, employees or other agents.

11.3. Vendor shall be responsible for providing liability insurance for its personnel.

11.4. As an independent contractor, Vendor has no authority to bind or commit Delaware. Nothing herein shall be deemed or construed to create a joint venture, partnership, fiduciary or agency relationship between the parties for any purpose.

#### **12. Suspension.**

12.1. Delaware may suspend performance by Vendor under this Agreement for such period of time as Delaware, at its sole discretion, may prescribe by providing written notice to Vendor at least 30 working days prior to the date on which Delaware wishes to suspend. Upon such suspension, Delaware shall pay Vendor its compensation, based on the percentage of the project completed and earned until the effective date of suspension, less all previous payments. Vendor shall not perform further work under this Agreement after the effective date of suspension. Vendor shall not perform further work under this Agreement after the effective date of suspension until receipt of written notice from Delaware to resume performance.

12.2. In the event Delaware suspends performance by Vendor for any cause other than the error or omission of the Vendor, for an aggregate period in excess of 30 days, Vendor shall be entitled to an equitable adjustment of the compensation payable to Vendor under this Agreement to reimburse Vendor for additional costs occasioned as a result of such suspension of performance by Delaware based on appropriated funds and approval by Delaware.

### 13. Termination.

- 13.1. This Agreement may be terminated in whole or in part by either party in the event of substantial failure of the other party to fulfill its obligations under this Agreement through no fault of the terminating party; but only after the other party is given:
- a. Not less than 20 calendar days written notice of intent to terminate; and
  - b. An opportunity for consultation with the terminating party prior to termination.
- 13.2. This Agreement may be terminated in whole or in part by Delaware for its convenience, but only after Vendor is given:
- a. Not less than 20 calendar days written notice of intent to terminate; and
  - b. An opportunity for consultation with Delaware prior to termination.
- 13.3. If termination for default is effected by Delaware, Delaware will pay Vendor that portion of the compensation which has been earned as of the effective date of termination, but:
- a. No amount shall be allowed for anticipated profit on performed or unperformed services or other work, and
  - b. Any payment due to Vendor at the time of termination may be adjusted to the extent of any additional costs occasioned to Delaware by reason of Vendor's default.
  - c. Upon termination for default, Delaware may take over the work and prosecute the same to completion by agreement with another party or otherwise. In the event Vendor shall cease conducting business, Delaware shall have the right to make an unsolicited offer of employment to any employees of Vendor assigned to the performance of the Agreement, notwithstanding the provisions of Section 10.2.
- 13.4. If after termination for failure of Vendor to fulfill contractual obligations it is determined that Vendor has not so failed, the termination shall be deemed to have been effected for the convenience of Delaware.
- 13.5. The rights and remedies of Delaware and Vendor provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.
- 13.6. Gratuities.
- a. Delaware may, by written notice to Vendor, terminate this Agreement if it is found after notice and hearing by Delaware that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Vendor or any agent or representative of Vendor to any officer or employee of Delaware with a view toward securing a

contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this Agreement.

- b. In the event this Agreement is terminated as provided in 13.6.a hereof, Delaware shall be entitled to pursue the same remedies against Vendor it could pursue in the event of a breach of this Agreement by Vendor.
- c. The rights and remedies of Delaware provided in Section 13.6 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

**14. Severability.**

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

**15. Assignment; Subcontracts.**

- 15.1. Any attempt by Vendor to assign or otherwise transfer any interest in this Agreement without the prior written consent of Delaware shall be void. Such consent shall not be unreasonably withheld.
- 15.2. Services specified by this Agreement shall not be subcontracted by Vendor, without prior written approval of Delaware.
- 15.3. Approval by Delaware of Vendor's request to subcontract or acceptance of or payment for subcontracted work by Delaware shall not in any way relieve Vendor of responsibility for the professional and technical accuracy and adequacy of the work. All subcontractors shall adhere to all applicable provisions of this Agreement.
- 15.4. Vendor shall be and remain liable for all damages to Delaware caused by negligent performance or non-performance of work under this Agreement by Vendor, its subcontractor or its sub-subcontractor.
- 15.5. The compensation due shall not be affected by Delaware's approval of the Vendor's request to subcontract.

**16. Force Majeure.**

Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.

**17. Non-Appropriation of Funds.**

17.1. Validity and enforcement of this Agreement is subject to appropriations by the General Assembly of the specific funds necessary for contract performance. Should such funds not be so appropriated Delaware may immediately terminate this Agreement, and absent such action this Agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available, at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

17.2. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate and Delaware's obligations under it shall be extinguished at the end of the fiscal year in which Delaware fails to appropriate monies for the ensuing fiscal year sufficient for the payment of all amounts which will then become due.

#### **18. State of Delaware Business License.**

Vendor and all subcontractors represent that they are properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* ' 2502.

#### **19. Complete Agreement.**

19.1. This agreement and its Appendices shall constitute the entire agreement between Delaware and Vendor with respect to the subject matter of this Agreement and shall not be modified or changed without the express written consent of the parties. The provisions of this agreement supersede all prior oral and written quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement.

19.2. If the scope of any provision of this Agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the Agreement shall not thereby fail, but the scope of such provision shall be curtailed only to the extent necessary to conform to the law.

19.3. Vendor may not order any product requiring a purchase order prior to Delaware's issuance of such order. Each Appendix, except as its terms otherwise expressly provide, shall be a complete statement of its subject matter and shall supplement and modify the terms and conditions of this Agreement for the purposes of that engagement only. No other agreements, representations, warranties or other matters, whether oral or written, shall be deemed to bind the parties hereto with respect to the subject matter hereof.

#### **20. Miscellaneous Provisions.**

20.1. In performance of this Agreement, Vendor shall comply with all applicable federal, state and local laws, ordinances, codes and regulations. Vendor shall solely bear the costs of permits and other relevant costs required in the performance of this Agreement.

- 20.2. Neither this Agreement nor any appendix may be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.
- 20.3. The delay or failure by either party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.
- 20.4. Vendor covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Vendor further covenants, to its knowledge and ability, that in the performance of said services no person having any such interest shall be employed.
- 20.5. Vendor acknowledges that Delaware has an obligation to ensure that public funds are not used to subsidize private discrimination. Vendor recognizes that if they refuse to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, Delaware may declare Vendor in breach of the Agreement, terminate the Agreement, and designate Vendor as non-responsible.
- 20.6. Vendor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, Delaware shall have the right to annul this contract without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.
- 20.7. This Agreement was drafted with the joint participation of both parties and shall be construed neither against nor in favor of either, but rather in accordance with the fair meaning thereof.
- 20.8. Vendor shall maintain all public records, as defined by 29 *Del. C.* § 502(1), relating to this Agreement and its deliverables for the time and in the manner specified by the Delaware Division of Archives, pursuant to the Delaware Public Records Law, 29 *Del. C.* Ch. 5. During the term of this Agreement, authorized representatives of Delaware may inspect or audit Vendor' performance and records pertaining to this Agreement at the Vendor business office during normal business hours.

## 21. Insurance.

21.1. Vendor shall maintain the following insurance during the term of this Agreement:

- a. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, **and**



- b. Comprehensive General Liability - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate, **and**
  - c. Medical/Professional Liability - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate; or
  - d. Miscellaneous Errors and Omissions - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate, or
  - e. Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.
- 21.2. Should any of the above described policies be cancelled before expiration date thereof, notice will be delivered in accordance with the policy provisions..
- 21.3. Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the contract number stated herein, shall be filed with the State. The certificate holder is as follows:

**Delaware Health Care Commission  
Margaret O'Neill Building  
410 Federal Street, Suite 7  
Dover, DE 19901  
Helen Arthur, Director of Planning & Policy**

- 21.4. In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.

**22. Assignment of Antitrust Claims.**

As consideration for the award and execution of this contract by the State, Vendor hereby grants, conveys, sells, assigns, and transfers to Delaware all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, relating to the particular goods or services purchased or acquired by the State pursuant to this contract,

**23. Governing Law.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. Vendor consents to jurisdiction venue in the State of Delaware.

**24. Notices.**

Any and all notices required by the provisions of this Agreement shall be in writing and shall be mailed, certified or registered mail, return receipt requested. All notices shall be sent to the following addresses:

DELAWARE:

**Delaware Health Care Commission  
Margaret O'Neill Building  
410 Federal Street, Suite 7  
Dover, DE 19901  
Attn: Helen Arthur, Director of Planning & Policy**

VENDOR:

**Remedy HealthCare Consulting, LLC  
PO Box 484035  
Kansas City, MO 64145  
(913) 634-0466  
Attn: Sheila Richmeier, President**

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

For the Contractor:

Signature on File

\_\_\_\_\_  
Name

President, Remedy Healthcare Consulting

\_\_\_\_\_  
Title

10/27/2015

\_\_\_\_\_  
Date

For the Delaware Health Care Commission:

Signature on File \_\_\_\_\_

Bettina Tweardy Riveros, Esq.  
Chairperson

11/2/15  
Date

For Delaware Health and Social Services:

Signature on File

Rita Landgraf  
Secretary

11/9/15  
Date

Approved as to form by:  
Signature on File

Laura Howard, Executive Director

10/30/15  
Date

**APPENDIX A**  
**STATEMENT OF WORK**

The following information is operational detail from the HSS-15-030 Request for Proposal (RFP). This is meant to highlight essential expectations for this project; however, does not mitigate the full RFP content.

**A. SERVICES**

**Remedy HealthCare Consulting, LLC** agrees to provide the following three (3) services in accordance with the Request for Proposal:

**1. Pre-transformation assessment**

Conduct an initial assessment of each primary care practice site to identify current capabilities and progress against the transformation milestones. Across the landscape of primary care practices in Delaware, HCC anticipates a range of readiness and starting states for practice transformation. Therefore, vendors should conduct an initial, rapid, standardized assessment of the current needs of each practice site. Vendors should then use the outputs of the assessment to develop a tailored curriculum for each site (described further in #2 below). Assessments should identify strengths and gaps in workforce, infrastructure, and workflows as they relate to capabilities and transformation milestones, prioritizing areas for improvement.

**2. Practice transformation support curriculum**

Vendors should develop and execute a standard curriculum that can be tailored for each primary care practice site based on the needs identified in the pre-transformation assessment. Vendors should provide a standard curriculum for each of the first and second years of transformation, including frequency and structure of learning activities. The curriculum may include content structured through the following modalities:

- **Learning collaboratives:** Vendors should establish and facilitate peer-to-peer learning collaboratives among practices to allow PCPs to learn from one another's experience. To enable learning and adoption at the practice level, practice transformation vendors should create mechanisms for providers to share best practices, to collaborate on common problems, and to adopt and refine evidence-informed protocols. HCC expects vendors to hold learning collaboratives quarterly. To encourage practice participation and maximize learning opportunities, vendors should structure collaboratives around practices of similar size and/or geography. Vendors should propose 2-year learning collaborative curriculum that aligned with practice transformation support. HCC expects that DCHI may provide additional recommendations on learning collaboratives over the coming months and that vendors will incorporate these recommendations;
- **Large format in-person trainings:** The curriculum may include large-format conferences, trainings, or symposia;
- **Live webinars:** The curriculum may include live, hosted webinars with live Q&A;
- **Recorded trainings:** The curriculum may include recorded trainings available to providers online on a self-serve basis; and
- **On-site coaching:** The curriculum may include on-site coaching for practice staff, e.g., one-on-one coaching sessions with a practice manager, a provider champion, and/or a small group of practice staff. The curriculum should be focused on building capabilities for effective population health management in a way that reduces the rate of growth in total cost of care

while improving health, quality of care, and patient experience going beyond simply helping practices to meet the transformation milestones as defined in DCHI Consensus Paper.

### **3. Semi-annual assessment against milestones**

For each participating practice site, vendors should conduct an assessment of progress towards each practice transformation milestone. Assessments should be conducted every 6 months, noting milestones that have been achieved and any upcoming milestones that a practice site may be at risk of missing.

## **B. REPORTING REQUIREMENTS**

Vendors shall be responsible for providing the following reports in a format provided by HCC- including content requirements. At its discretion, HCC may share vendor reports with the Board of the DCHI.

1. **Start-up:** The vendor shall provide an initial report describing the vendor's completion of start-up activities, including, but not limited to, hiring of new staff, development of provider outreach and enrollment plans, and readiness to begin engaging with providers. **The vendor shall submit a report on its provider outreach and enrollment approach within thirty (30) days, and a final start-up report with the remaining information, including proposed metrics demonstrating progress and effectiveness, within sixty (60) days of the notice of contract award.**

2. **Monthly progress:** The vendor shall provide monthly progress reports to HCC, which may be shared with the DCHI Board of Directors. The progress report must include, but is not limited to, the following information:

- 1) list of practice sites enrolled;
- 2) current status of support for each site (e.g., pre-assessment transformation complete, tailored curriculum developed);
- 3) vendor activity for that month; and
- 4) any operating issues related to providing support, including, but not limited to, vendor capacity constraints or challenges with provider participation.

Vendor should propose a set of metrics to demonstrate progress and measures overall effectiveness and report on these to the HCC in these monthly progress reports.

3. **Practice participation:** The vendor shall report on a quarterly basis the participation by each practice site in transformation activities, including but not limited to, **practice enrollment, attendance at onsite coaching sessions, completion of online webinars, and participation in learning collaboratives.**

4. **Risks:** The vendor shall submit a Risks Report on "at-risk" practices that are unlikely to achieve some or all milestones on the required timeline. For each at-risk practice site, the vendor shall submit a corrective action plan jointly developed with the practice site. **The Risks Report shall be submitted quarterly.** The vendor shall include an addendum to the monthly progress report for all practice sites that have a corrective action plan describing progress against the plan.

5. **Semi-annual assessment:** The vendor shall submit a report every six (6) months upon completing an assessment of progress towards milestones at each practice site in accordance with

the Delaware Center for Health Innovation Primary Care Practice Transformation Consensus Paper.. The report shall describe the milestones that have been achieved by each practice site and provide summary statistics on the number of practice sites achieving each milestone for each enrollment wave.

**Quantitative Transformation Milestones will be used to measure each practices progress on population health management (From the Practice Transformation Consensus Paper-pg. 9)**

<b>6 months</b>	<b>12 months</b>	<b>18 months</b>	<b>24 months</b>
Identify the 5% of panel at the highest risk and highest priority for care coordination (6 months)	Supply voice-to-voice coverage to panel members 24/7 (e.g., patient can speak with a licensed health professional at any time) (12 months).	Implement a process for contacting patients who did not receive appropriate preventive care (18 months).	Implement a multi-disciplinary team working with highest-risk patients to develop care plans (24 months).
Provide same-day appointments and/or after-hours access to care (6 months).	Document sourcing and implementation plan for launching a multidisciplinary team working with the highest-risk patients to develop a care plan (12 months).		Document a plan for patients with behavioral health needs (24 months).
Implement a process for following up after hospital discharge (6 months)	Document plan to reduce emergency room overutilization (12 months).		

**EXHIBIT A**  
**MIX AND INTENSITY OF REQUIRED SERVICES**

**C. AGREEMENTS AND ASSUMPTIONS**

**Remedy HealthCare Consulting LLC** will provide Practice Transformation Services (PTS) for the Delaware Health Care Commission, in collaboration with the Delaware Center for Health Innovation (DCHI) to support primary care practice transformation in Delaware. The funding to support the PTS project is the result of a State Innovation Model (SIM) Test grant from the Center for Medicare and Medicaid Innovation (CMMI). Vendors' participating in this project means that collaboration with the CMMI federal agency may require occasional revisions to the certain aspects of the State of Delaware's practice transformation services efforts. As such, a few elements are agreeable to all parties:

1. As indicated in the RFP, vendor payments will be paid on a per site per month (PSPM) basis for each practice enrolled in practice transformation efforts with a vendor. PSPM is subject to successful vendor performance.

**Total payments under this contract shall not exceed \$1,200,000 which is based on a set budget of \$12,000 per practice site per year inclusive of overhead and management costs.**

2. Remedy HealthCare Consulting LLC agrees to work in collaboration with HCC, the DCHI, and the HCC's state-led evaluation vendor (selection pending) to meet Delaware's evaluation requirements of the federal CMMI Cooperative Agreement program.
3. Remedy HealthCare Consulting LLC agrees to propose a set of metrics, to be approved by the HCC, to demonstrate progress and measure overall effectiveness. These metrics will be reported via monthly progress reports which may be shared with the DCHI.
4. Each vendor selected under this RFP agrees to participate in one kick-off and subsequent quarterly Practice Transformation vendor meetings. Attendance may be required in person or may be conducted via conference call. These will be scheduled by the HCC as required to promote collaboration and streamline processes for the project.
5. Each monthly invoice must be accompanied by monthly progress reports as outlined in Appendix A. Purchase Order numbers must be documented on all invoices.

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**APPENDIX B  
SCOPE OF WORK AND TECHNICAL REQUIREMENTS**

**Attachment 13: Mix and intensity of services provided**

In the tables below, describe the proposed units for each modality of service (e.g., 60 minutes of onsite coaching with the practice manager, 1 30-minute webinar with Q&A functionality) for the "basic" curriculum and the "advanced" curriculum (if different). For each modality, describe the average number of units of support provided in the curriculum for a typical practice and the average cost per unit. Assume a budget of \$12,000 annually per participating practice site, on average, regardless of starting point (i.e., "basic" or "advanced"). HCC reserves the right to enter into negotiations with selected vendors that may modify this budget, including scaling up or down the intensity of support in proportion with changes in the budget. Costs per unit should be inclusive of overhead and management costs.

**BASIC curriculum**

This curriculum should be targeted to practices that are at the beginning of the transformation process as described in the DCHI Consensus Paper (i.e., do not meet all or most of the transformation milestones).

Modality of service	Description	# units per PCP site	Cost per unit	Cost per PCP site
Pre-transformation assessment	Initial assessment to identify current capabilities and progress against transformation milestones, used to tailor curriculum	8 hours of initial assessment	\$ 175 per hour	\$ 1400 per site per year of support
Semi-annual assessment	Semi-annual assessment of progress towards each practice transformation milestone	4 hours per semi-annual assessment	\$ 175 per hour	\$ 700 per site per year of support
Learning collaboratives	Small-group meetings of 5-15 practice sites, represented by office managers	7.3 hours of meetings per year of support	\$ 175 per hour	\$ 1278 per site per year of support
Large-format in-person training	Large-format trainings, conferences or symposia	7 hours of large-format training	\$ 175 per hour	\$ 1225 per site per year of support
Live webinars	Hosted webinars with live Q&A	1.5 hours of live hosted webinars	\$ 175 per hour of hosted webinars	\$ 262 per site per year of support
Recorded online trainings (self-serve)	Self-serve, recorded webinars	4 recorded webinars	\$ 20 per webinar	\$ 306 per site per year of support
On-site coaching	One-on-one coaching with practice manager, physician champion, or small group at the practice site	39 hours of on-site coaching per year of support	\$ 175 per hour	\$ 6825 per site per year of support
Other				\$ _____ per site per year of support
<b>Total per PCP site per year of support</b>				<b>\$12,000 per site per year of support</b>

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**Advanced curriculum:**

This curriculum should be targeted to practices that have completed transformation for Milestone #1 through Milestone #4 as described in the DCHI Consensus Paper.

<b>Modality of service</b>	<b>Description</b>	<b># units per PCP site</b>	<b>Cost per unit</b>	<b>Cost per PCP site</b>
Pre-transformation assessment	Initial assessment to identify current capabilities and progress against transformation milestones, used to tailor curriculum	<u>6</u> hours of initial assessment	\$ <u>175</u> per hour	\$ <u>1050</u> per site per year of support
Semi-annual assessment	Semi-annual assessment of progress towards each practice transformation milestone	<u>4</u> hours per semi-annual assessment	\$ <u>175</u> per hour	\$ <u>700</u> per site per year of support
Learning collaboratives	Small-group meetings of 5-15 practice sites, represented by office managers	<u>10</u> hours of meetings per year of support	\$ <u>175</u> per hour	\$ <u>1750</u> per site per year of support
Large-format in-person training	Large-format trainings, conferences or symposia	<u>7</u> hours of large-format training	\$ <u>175</u> per hour	\$ <u>1225</u> per site per year of support
Live webinars	Hosted webinars with live Q&A	<u>1.5</u> hours of live hosted webinars	\$ <u>175</u> per hour of hosted webinars	\$ <u>262</u> per site per year of support
Recorded online trainings (self-serve)	Self-serve, recorded webinars	<u>1</u> recorded webinars	\$ <u>20</u> per webinar	\$ <u>175</u> per site per year of support
On-site coaching	One-on-one coaching with practice manager, physician champion, or small group at the practice site	<u>39</u> hours of on-site coaching per year of support	\$ <u>175</u> per hour	\$ <u>6825</u> per site per year of support
Other				\$ _____ per site per year of support
<b>Total per PCP site per year of support</b>				<b>\$ <u>12,000</u> per site per year of</b>



BETTINA TWEARDY RIVEROS, ESQ., CHAIR  
LAURA HOWARD, EXECUTIVE DIRECTOR



STATE OF DELAWARE  
**DELAWARE HEALTH CARE COMMISSION**  
MARGARET O'NEILL BUILDING  
410 FEDERAL STREET, SUITE 7  
TELEPHONE: (302) 739-2730  
FAX: (302) 739-6927  
[www.dhss.delaware.gov/dhcc](http://www.dhss.delaware.gov/dhcc)

THEODORE W. BECKER, JR.  
THOMAS J. COOK  
A. RICHARD HEFFRON  
RITA LANDGRAF  
JANICE L. LEE, MD  
KATHLEEN S. MATT, PhD  
JANICE E. NEVIN, MD, MPH  
JENNIFER RANJI  
DENNIS ROCHFORD  
KAREN WELDIN STEWART

**PROFESSIONAL SERVICES AGREEMENT**  
**for**  
**PATIENT TRANSFORMATION SERVICES**  
**RFP # HSS-15-030**

This Professional Services Agreement (“Agreement”) is entered into as of November 9, 2015 by the parties, (Effective Date) and will end on November 9, 2016 unless specifically extended by an amendment signed by all parties to the Contract, by and between the State of Delaware, Department of Health and Social Services, Delaware Health Care Commission ("Commission"), and New Jersey Academy of Family Physician, (the “Vendor”), with offices at 224 West State Street, Trenton, NJ 08608.

WHEREAS, Delaware desires to obtain certain services to support primary care practice transformation in Delaware as described in the HSS-15-030 request for proposal via three (3) explicit services of: 1) pre-transformation assessment; 2) practice transformation support curriculum; and 3) semi-annual assessment against milestones.

WHEREAS, Vendor desires to provide such services to Delaware on the terms set forth below;

WHEREAS, Delaware and Vendor represent and warrant that each party has full right, power and authority to enter into and perform under this Agreement;

FOR AND IN CONSIDERATION OF the premises and mutual agreements herein, Delaware and Vendor agree as follows:

**1. Services.**

- 1.1. Vendor shall perform for Delaware the services specified in the Appendices to this Agreement, attached hereto and made a part hereof.
- 1.2. Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) Delaware’s request for proposals, attached hereto as Appendix B; and (c) Vendor’s response to the

request for proposals, attached hereto as Exhibit B. The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

- 1.3. Delaware may, at any time, by written order, make changes in the scope of this Agreement and in the services or work to be performed. No services for which additional compensation may be charged by Vendor shall be furnished, without the written authorization of Delaware. When Delaware desires any addition or deletion to the deliverables or a change in the Services to be provided under this Agreement, it shall notify Vendor, who shall then submit to Delaware a "Change Order" for approval authorizing said change. The Change Order shall state whether the change shall cause an alteration in the price or the time required by Vendor for any aspect of its performance under this Agreement. Pricing of changes shall be consistent with those established within this Agreement.
- 1.4. Vendor will not be required to make changes to its scope of work that result in Vendor's costs exceeding the current unencumbered budgeted appropriations for the services. Any claim of either party for an adjustment under Section 1 of this Agreement shall be asserted in the manner specified in the writing that authorizes the adjustment.

## 2. **Payment for Services and Expenses.**

- 2.1. The term of the initial contract shall be from November 9, 2015 through November 9, 2016.
- 2.2. Delaware will pay Vendor for the performance of services described in Appendix A, Statement of Work. The fee will be paid in accordance with the payment schedule attached hereto as part of Exhibit A.
- 2.3. Delaware's obligation to pay Vendor for the performance of services described in Appendix A, Statement of Work will not exceed \$1,200,000 which is based on the amount of \$12,000 per site annually as indicated in Exhibit A. It is expressly understood that the work defined in the appendices to this Agreement must be completed by Vendor and it shall be Vendor's responsibility to ensure that hours and tasks are properly budgeted so that all services are completed for the agreed upon fee. Delaware's total liability for all charges for services that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in Delaware's purchase order(s) to Vendor.
- 2.4. Vendor shall submit monthly invoices to Delaware in sufficient detail to support the services provided during the previous month. Delaware agrees to pay those invoices within thirty (30) days of receipt. In the event Delaware disputes a portion of an invoice, Delaware agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide Vendor a detailed statement of Delaware's position on the disputed portion of the invoice within thirty (30) days of receipt. Delaware's failure to pay any amount of an invoice that is not the subject of a good-faith dispute within thirty (30) days of receipt shall entitle Vendor to charge interest on the overdue portion at the lower of 1.0% per month. All payments should be sent to the Vendor's identified

address on record with the State of Delaware's Division of Accounting as identified in the completion of the electronic W-9.

- 2.5. Unless provided otherwise in an Appendix, all expenses incurred in the performance of the services are to be paid by Vendor. If an Appendix specifically provides for expense reimbursement, Vendor shall be reimbursed only for reasonable expenses incurred by Vendor in the performance of the services, including, but not necessarily limited to, travel and lodging expenses, communications charges, and computer time and supplies.
- 2.6. Delaware is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from any related deficiency, which may become due and payable as a consequence of this Agreement.
- 2.7. Delaware shall subtract from any payment made to Vendor all damages, costs and expenses caused by Vendor's negligence, resulting from or arising out of errors or omissions in Vendor's work products, which have not been previously paid to Vendor.
- 2.8. Invoices shall be submitted to:

**Delaware Health Care Commission  
Margaret O'Neill Building  
410 Federal Street, Suite 7  
Dover, DE 19901  
Attn: Eschalla Clarke, Senior Social Services Administrator**

### **3. Responsibilities of Vendor.**

- 3.1. Vendor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by Vendor, its subcontractors and its and their principals, officers, employees and agents under this Agreement. In performing the specified services, Vendor shall follow practices consistent with generally accepted professional and technical standards. Vendor shall be responsible for ensuring that all services, products and deliverables furnished pursuant to this Agreement comply with the standards promulgated by the Department of Technology and Information ("DTI") published at <http://dti.delaware.gov/>, and as modified from time to time by DTI during the term of this Agreement. If any service, product or deliverable furnished pursuant to this Agreement does not conform to DTI standards, Vendor shall, at its expense and option either (1) replace it with a conforming equivalent or (2) modify it to conform to DTI standards. Vendor shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to Delaware caused by Vendor's failure to ensure compliance with DTI standards.
- 3.2. It shall be the duty of the Vendor to assure that all products of its effort are technically sound and in conformance with all pertinent Federal, State and Local statutes, codes, ordinances, resolutions and other regulations. Vendor will not produce a work product

that violates or infringes on any copyright or patent rights. Vendor shall, without additional compensation, correct or revise any errors or omissions in its work products.

- 3.3. Permitted or required approval by Delaware of any products or services furnished by Vendor shall not in any way relieve Vendor of responsibility for the professional and technical accuracy and adequacy of its work. Delaware's review, approval, acceptance, or payment for any of Vendor's services herein shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Vendor shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to Delaware caused by Vendor's performance or failure to perform under this Agreement.
- 3.4. Vendor shall appoint a Project Manager who will manage the performance of services. All of the services specified by this Agreement shall be performed by the Project Manager, or by Vendor's associates and employees under the personal supervision of the Project Manager. The positions anticipated include:

<b>Team Member</b>	<b>Title /Role</b>
Sandi Selzer, MSHQ	Vice President, Healthcare Transformation and Quality Improvement
Lisa Roche, PhD, MS, MPH	Epidemiologist
Angelia Halaja-Henriques	Program Director
Karen Foster, RN, MSA	Project Facilitator
Tara Perrone, MHA	Project Facilitator
Jessica Runyon	Project Facilitator, Communications Specialist
Pamela Joyce	Project Operations
Theresa Barrett, PhD, CMP, CAE	Deputy EVP
Raymond Saputelli, MBA, CAE	Executive Director, DAFP; Executive Vice President, NJAFP
Erica Keagy, MS	Associate Executive Director

- 3.5. Designation of persons for each position is subject to review and approval by Delaware. Should the staff need to be diverted off the project for what are now unforeseeable circumstances, Vendor will notify Delaware immediately and work out a transition plan that is acceptable to both parties, as well as agree to an acceptable replacement plan to fill or complete the work assigned to this project staff position. Replacement staff persons are subject to review and approval by Delaware. If Vendor fails to make a

required replacement within 30 days, Delaware may terminate this Agreement for default. Upon receipt of written notice from Delaware that an employee of Vendor is unsuitable to Delaware for good cause, Vendor shall remove such employee from the performance of services and substitute in his/her place a suitable employee.

- 3.6. Vendor shall furnish to Delaware's designated representative copies of all correspondence to regulatory agencies for review prior to mailing such correspondence.
- 3.7. Vendor agrees that its officers and employees will cooperate with Delaware in the performance of services under this Agreement and will be available for consultation with Delaware at such reasonable times with advance notice as to not conflict with their other responsibilities.
- 3.8. Vendor has or will retain such employees as it may need to perform the services required by this Agreement. Such employees shall not be employed by Delaware or any other political subdivision of Delaware.
- 3.9. Vendor will not use Delaware's name, either express or implied, in any of its advertising or sales materials without Delaware's express written consent.
- 3.10. The rights and remedies of Delaware provided for in this Agreement are in addition to any other rights and remedies provided by law.

#### 4. **Time Schedule.**

- 4.1. A project schedule is included in Appendix A.
- 4.2. Any delay of services or change in sequence of tasks must be approved in writing by Delaware.
- 4.3. In the event that Vendor fails to complete the project or any phase thereof within the time specified in the Contract, or with such additional time as may be granted in writing by Delaware, or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this Agreement or any extensions thereof, Delaware shall suspend the payments scheduled as set forth in Appendix A and Exhibit A.

#### 5. **State Responsibilities.**

- 5.1. In connection with Vendor's provision of the Services, Delaware shall perform those tasks and fulfill those responsibilities specified in the appropriate Appendices.
- 5.2. Delaware agrees that its officers and employees will cooperate with Vendor in the performance of services under this Agreement and will be available for consultation with Vendor at such reasonable times with advance notice as to not conflict with their other responsibilities.

- 5.3. The services performed by Vendor under this Agreement shall be subject to review for compliance with the terms of this Agreement by Delaware's designated representatives. Delaware representatives may delegate any or all responsibilities under the Agreement to appropriate staff members, and shall so inform Vendor by written notice before the effective date of each such delegation.
- 5.4. The review comments of Delaware's designated representatives may be reported in writing as needed to Vendor. It is understood that Delaware's representatives' review comments do not relieve Vendor from the responsibility for the professional and technical accuracy of all work delivered under this Agreement.
- 5.5. Delaware shall, without charge, furnish to or make available for examination or use by Vendor as it may request, any data which Delaware has available, including as examples only and not as a limitation:
  - a. Copies of reports, surveys, records, and other pertinent documents;
  - b. Copies of previously prepared reports, job specifications, surveys, records, ordinances, codes, regulations, other documents, and information related to the services specified by this Agreement.

Vendor shall return any original data provided by Delaware.

- 5.6. Delaware shall assist Vendor in obtaining data on documents from public officers or agencies and from private citizens and business firms whenever such material is necessary for the completion of the services specified by this Agreement.
- 5.7. Vendor will not be responsible for accuracy of information or data supplied by Delaware or other sources to the extent such information or data would be relied upon by a reasonably prudent contractor.
- 5.8. Delaware agrees not to use Vendor's name, either express or implied, in any of its advertising or sales materials. Vendor reserves the right to reuse the nonproprietary data and the analysis of industry-related information in its continuing analysis of the industries covered.

## 6. **Work Product.**

- 6.1. All materials, information, documents, and reports, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by Vendor for Delaware relating to the services to be performed hereunder shall become the property of Delaware and shall be delivered to Delaware's designated representative upon completion or termination of this Agreement, whichever comes first. Vendor shall not be liable for damages, claims, and losses arising out of any reuse of any work products on any other project conducted by Delaware. Delaware shall have the right to reproduce all documentation supplied pursuant to this Agreement.

- 6.2. Vendor retains all title and interest to the data it furnished and/or generated pursuant to this Agreement. Retention of such title and interest does not conflict with Delaware's rights to the materials, information and documents developed in performing the project. Upon final payment, Delaware shall have a perpetual, nontransferable, non-exclusive paid-up right and license to use, copy, modify and prepare derivative works of all materials in which Vendor retains title, whether individually by Vendor or jointly with Delaware. Any and all source code developed in connection with the services provided will be provided to Delaware, and the aforementioned right and license shall apply to source code. The parties will cooperate with each other and execute such other documents as may be reasonably deemed necessary to achieve the objectives of this Section.
- 6.3. In no event shall Vendor be precluded from developing for itself, or for others, materials that are competitive with the Deliverables, irrespective of their similarity to the Deliverables. In addition, Vendor shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques within the scope of its consulting practice that are used in the course of providing the services.
- 6.4. Notwithstanding anything to the contrary contained herein or in any attachment hereto, any and all intellectual property or other proprietary data owned by Vendor prior to the effective date of this Agreement ("Preexisting Information") shall remain the exclusive property of Vendor even if such Preexisting Information is embedded or otherwise incorporated into materials or products first produced as a result of this Agreement or used to develop such materials or products. Delaware's rights under this section shall not apply to any Preexisting Information or any component thereof regardless of form or media.

## **7. Confidential Information.**

To the extent permissible under 29 *Del. C.* ' 10001, et seq., the parties to this Agreement shall preserve in strict confidence any information, reports or documents obtained, assembled or prepared in connection with the performance of this Agreement.

## **8. Warranty.**

- 8.1. Vendor warrants that its services will be performed in a good and workmanlike manner. Vendor agrees to re-perform any work not in compliance with this warranty brought to its attention within a reasonable time after that work is performed.
- 8.2. Third-party products within the scope of this Agreement are warranted solely under the terms and conditions of the licenses or other agreements by which such products are governed. With respect to all third-party products and services purchased by Vendor for Delaware in connection with the provision of the Services, Vendor shall pass through or assign to Delaware the rights Vendor obtains from the manufacturers and/or vendors of such products and services (including warranty and indemnification rights), all to the extent that such rights are assignable.

## **9. Indemnification; Limitation of Liability.**

- 9.1. Vendor shall indemnify and hold harmless the State, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of:
- a. the negligence or other wrongful conduct of the Vendor, its agents or employees, or
  - b. Vendor's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that
    - i. Vendor shall have been notified promptly in writing by Delaware of any notice of such claim; and
    - ii. Vendor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.
- 9.2. If Delaware promptly notifies Vendor in writing of a third party claim against Delaware that any Deliverable infringes a copyright or a trade secret of any third party, Vendor will defend such claim at its expense and will pay any costs or damages that may be finally awarded against Delaware. Vendor will not indemnify Delaware, however, if the claim of infringement is caused by:
- a. Delaware's misuse or modification of the Deliverable;
  - b. Delaware's failure to use corrections or enhancements made available by Vendor;
  - c. Delaware's use of the Deliverable in combination with any product or information not owned or developed by Vendor;
  - d. Delaware's distribution, marketing or use for the benefit of third parties of the Deliverable or
  - e. Information, direction, specification or materials provided by Client or any third party. If any Deliverable is, or in Vendor's opinion is likely to be, held to be infringing, Vendor shall at its expense and option either
    - i. Procure the right for Delaware to continue using it,
    - ii. Replace it with a non-infringing equivalent,
    - iii. Modify it to make it non-infringing.

The foregoing remedies constitute Delaware's sole and exclusive remedies and Vendor's entire liability with respect to infringement.

## 10. **Employees.**



- 10.1. Vendor has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by Vendor in the performance of the services hereunder; provided, however, that it will, subject to scheduling and staffing considerations, attempt to honor Delaware's request for specific individuals.
- 10.2. Except as the other party expressly authorizes in writing in advance, neither party shall solicit, offer work to, employ, or contract with, whether as a partner, employee or independent contractor, directly or indirectly, any of the other party's Personnel during their participation in the services or during the twelve (12) months thereafter. For purposes of this Section, Personnel includes any individual or company a party employs as a partner, employee or independent contractor and with which a party comes into direct contact in the course of the services.
- 10.3. Possession of a Security Clearance, as issued by the Delaware Department of Public Safety, may be required of any employee of Vendor who will be assigned to this project.

#### **11. Independent Contractor.**

- 11.1. It is understood that in the performance of the services herein provided for, Vendor shall be, and is, an independent contractor, and is not an agent or employee of Delaware and shall furnish such services in its own manner and method except as required by this Agreement. Vendor shall be solely responsible for, and shall indemnify, defend and save Delaware harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.
- 11.2. Vendor acknowledges that Vendor and any subcontractors, agents or employees employed by Vendor shall not, under any circumstances, be considered employees of Delaware, and that they shall not be entitled to any of the benefits or rights afforded employees of Delaware, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits. Delaware will not provide or pay for any liability or medical insurance, retirement contributions or any other benefits for or on behalf of Delaware or any of its officers, employees or other agents.
- 11.3. Vendor shall be responsible for providing liability insurance for its personnel.
- 11.4. As an independent contractor, Vendor has no authority to bind or commit Delaware. Nothing herein shall be deemed or construed to create a joint venture, partnership, fiduciary or agency relationship between the parties for any purpose.

#### **12. Suspension.**

- 12.1. Delaware may suspend performance by Vendor under this Agreement for such period of time as Delaware, at its sole discretion, may prescribe by providing written notice to Vendor at least 30 working days prior to the date on which Delaware wishes to suspend.

Upon such suspension, Delaware shall pay Vendor its compensation, based on the percentage of the project completed and earned until the effective date of suspension, less all previous payments. Vendor shall not perform further work under this Agreement after the effective date of suspension. Vendor shall not perform further work under this Agreement after the effective date of suspension until receipt of written notice from Delaware to resume performance.

12.2. In the event Delaware suspends performance by Vendor for any cause other than the error or omission of the Vendor, for an aggregate period in excess of 30 days, Vendor shall be entitled to an equitable adjustment of the compensation payable to Vendor under this Agreement to reimburse Vendor for additional costs occasioned as a result of such suspension of performance by Delaware based on appropriated funds and approval by Delaware.

### 13. Termination.

13.1. This Agreement may be terminated in whole or in part by either party in the event of substantial failure of the other party to fulfill its obligations under this Agreement through no fault of the terminating party; but only after the other party is given:

- a. Not less than 20 calendar days written notice of intent to terminate; and
- b. An opportunity for consultation with the terminating party prior to termination.

13.2. This Agreement may be terminated in whole or in part by Delaware for its convenience, but only after Vendor is given:

- a. Not less than 20 calendar days written notice of intent to terminate; and
- b. An opportunity for consultation with Delaware prior to termination.

13.3. If termination for default is effected by Delaware, Delaware will pay Vendor that portion of the compensation which has been earned as of the effective date of termination, but:

- a. No amount shall be allowed for anticipated profit on performed or unperformed services or other work, and
- b. Any payment due to Vendor at the time of termination may be adjusted to the extent of any additional costs occasioned to Delaware by reason of Vendor's default.
- c. Upon termination for default, Delaware may take over the work and prosecute the same to completion by agreement with another party or otherwise. In the event Vendor shall cease conducting business, Delaware shall have the right to make an unsolicited offer of employment to any employees of Vendor assigned to the performance of the Agreement, notwithstanding the provisions of Section 10.2.

13.4. If after termination for failure of Vendor to fulfill contractual obligations it is determined that Vendor has not so failed, the termination shall be deemed to have been effected for the convenience of Delaware.

13.5. The rights and remedies of Delaware and Vendor provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.

13.6. Gratuities.

- a. Delaware may, by written notice to Vendor, terminate this Agreement if it is found after notice and hearing by Delaware that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Vendor or any agent or representative of Vendor to any officer or employee of Delaware with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this Agreement.
- b. In the event this Agreement is terminated as provided in 13.6.a hereof, Delaware shall be entitled to pursue the same remedies against Vendor it could pursue in the event of a breach of this Agreement by Vendor.
- c. The rights and remedies of Delaware provided in Section 13.6 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

**14. Severability.**

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

**15. Assignment; Subcontracts.**

15.1. Any attempt by Vendor to assign or otherwise transfer any interest in this Agreement without the prior written consent of Delaware shall be void. Such consent shall not be unreasonably withheld.

15.2. Services specified by this Agreement shall not be subcontracted by Vendor, without prior written approval of Delaware.

15.3. Approval by Delaware of Vendor's request to subcontract or acceptance of or payment for subcontracted work by Delaware shall not in any way relieve Vendor of responsibility for the professional and technical accuracy and adequacy of the work. All subcontractors shall adhere to all applicable provisions of this Agreement.

15.4. Vendor shall be and remain liable for all damages to Delaware caused by negligent performance or non-performance of work under this Agreement by Vendor, its subcontractor or its sub-subcontractor.

15.5. The compensation due shall not be affected by Delaware's approval of the Vendor's request to subcontract.

**16. Force Majeure.**

Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.

**17. Non-Appropriation of Funds.**

17.1. Validity and enforcement of this Agreement is subject to appropriations by the General Assembly of the specific funds necessary for contract performance. Should such funds not be so appropriated Delaware may immediately terminate this Agreement, and absent such action this Agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available, at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

17.2. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate and Delaware's obligations under it shall be extinguished at the end of the fiscal year in which Delaware fails to appropriate monies for the ensuing fiscal year sufficient for the payment of all amounts which will then become due.

**18. State of Delaware Business License.**

Vendor and all subcontractors represent that they are properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* ' 2502.

**19. Complete Agreement.**

19.1. This agreement and its Appendices shall constitute the entire agreement between Delaware and Vendor with respect to the subject matter of this Agreement and shall not be modified or changed without the express written consent of the parties. The provisions of this agreement supersede all prior oral and written quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement.

19.2. If the scope of any provision of this Agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the Agreement shall not thereby fail, but the scope of such provision shall be curtailed only to the extent necessary to conform to the law.

19.3. Vendor may not order any product requiring a purchase order prior to Delaware's issuance of such order. Each Appendix, except as its terms otherwise expressly provide, shall be a complete statement of its subject matter and shall supplement and modify the terms and conditions of this Agreement for the purposes of that engagement only. No other agreements, representations, warranties or other matters, whether oral or written, shall be deemed to bind the parties hereto with respect to the subject matter hereof.

## 20. **Miscellaneous Provisions.**

20.1. In performance of this Agreement, Vendor shall comply with all applicable federal, state and local laws, ordinances, codes and regulations. Vendor shall solely bear the costs of permits and other relevant costs required in the performance of this Agreement.

20.2. Neither this Agreement nor any appendix may be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

20.3. The delay or failure by either party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

20.4. Vendor covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Vendor further covenants, to its knowledge and ability, that in the performance of said services no person having any such interest shall be employed.

20.5. Vendor acknowledges that Delaware has an obligation to ensure that public funds are not used to subsidize private discrimination. Vendor recognizes that if they refuse to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, Delaware may declare Vendor in breach of the Agreement, terminate the Agreement, and designate Vendor as non-responsible.

20.6. Vendor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, Delaware shall have the right to annul this contract without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

20.7. This Agreement was drafted with the joint participation of both parties and shall be construed neither against nor in favor of either, but rather in accordance with the fair meaning thereof.

20.8. Vendor shall maintain all public records, as defined by 29 *Del. C.* ' 502(1), relating to this Agreement and its deliverables for the time and in the manner specified by the Delaware Division of Archives, pursuant to the Delaware Public Records Law, 29 *Del. C.* Ch. 5. During the term of this Agreement, authorized representatives of Delaware may inspect or audit Vendor' performance and records pertaining to this Agreement at the Vendor business office during normal business hours.

**21. Insurance.**

21.1. Vendor shall maintain the following insurance during the term of this Agreement:

- a. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, **and**
- b. Comprehensive General Liability - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate, **and**
- c. Medical/Professional Liability - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate; or
- d. Miscellaneous Errors and Omissions - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate, or
- e. Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.

21.2. Should any of the above described policies be cancelled before expiration date thereof, notice will be delivered in accordance with the policy provisions..

21.3. Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the contract number stated herein, shall be filed with the State. The certificate holder is as follows:

**Delaware Health Care Commission  
Margaret O'Neill Building  
410 Federal Street, Suite 7  
Dover, DE 19901  
Helen Arthur, Director of Planning & Policy**

21.4. In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.

**22. Assignment of Antitrust Claims.**

As consideration for the award and execution of this contract by the State, Vendor hereby grants, conveys, sells, assigns, and transfers to Delaware all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the

antitrust laws of the United States and the State of Delaware, relating to the particular goods or services purchased or acquired by the State pursuant to this contract.

**23. Governing Law.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. Vendor consents to jurisdiction venue in the State of Delaware.

**24. Notices.**

Any and all notices required by the provisions of this Agreement shall be in writing and shall be mailed, certified or registered mail, return receipt requested. All notices shall be sent to the following addresses:

DELAWARE:

**Delaware Health Care Commission  
Margaret O'Neill Building  
410 Federal Street, Suite 7  
Dover, DE 19901  
Attn: Eschalla Clarke, Senior Social Services Administrator**

VENDOR:

**New Jersey Academy of Family Physicians  
224 West State Street  
Trenton, NJ 086908  
(609) 394-1711  
Attn: Raymond J. Saputelli, Executive Vice President**

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

For the Contractor:

For the Delaware Health Care  
Commission:  
Signature on File

Signature on File

\_\_\_\_\_  
Name

\_\_\_\_\_  
Bettina Tweardy Riveros, Esq.  
Chairperson

Executive V.P.  
Title

11/10/15  
Date


11-04-2015  
Date

For Delaware Health and Social  
Services:

Signature on File

 Rita Landgraf  
Secretary

  
Date

Approved as to form by:   
Signature on File

 Laura Howard, Executive Director

  
Date

### APPENDIX A STATEMENT OF WORK

The following information is operational detail from the HSS-15-030 Request for Proposal (RFP). This is meant to highlight essential expectations for this project; however, does not mitigate the full RFP content.

#### **A. SERVICES**

NJAFP agrees to provide the following three (3) services in accordance with the Request for Proposal:

##### **1. Pre-transformation assessment**

Conduct an initial assessment of each primary care practice site to identify current capabilities and progress against the transformation milestones. Across the landscape of primary care practices in Delaware, HCC anticipates a range of readiness and starting states for practice transformation. Therefore, vendors should conduct an initial, rapid, standardized assessment of the current needs of each practice site. Vendors should then use the outputs of the assessment to develop a tailored curriculum for each site (described further in #2 below). Assessments should identify strengths and gaps in workforce, infrastructure, and workflows as they relate to capabilities and transformation milestones, prioritizing areas for improvement.

##### **2. Practice transformation support curriculum**

Vendors should develop and execute a standard curriculum that can be tailored for each primary care practice site based on the needs identified in the pre-transformation assessment. Vendors should provide a standard curriculum for each of the first and second years of transformation, including frequency and structure of learning activities. The curriculum may include content structured through the following modalities:

- **Learning collaboratives:** Vendors should establish and facilitate peer-to-peer learning collaboratives among practices to allow PCPs to learn from one another's experience. To enable learning and adoption at the practice level, practice transformation vendors should create mechanisms for providers to share best practices, to collaborate on common problems, and to adopt and refine evidence-informed protocols. HCC expects vendors to hold learning collaboratives quarterly. To encourage practice participation and maximize learning opportunities, vendors should structure collaboratives around practices of similar size and/or



geography. Vendors should propose 2-year learning collaborative curriculum that aligned with practice transformation support. HCC expects that DCHI may provide additional recommendations on learning collaboratives over the coming months and that vendors will incorporate these recommendations;

- **Large format in-person trainings:** The curriculum may include large-format conferences, trainings, or symposia;
- **Live webinars:** The curriculum may include live, hosted webinars with live Q&A;
- **Recorded trainings:** The curriculum may include recorded trainings available to providers online on a self-serve basis; and
- **On-site coaching:** The curriculum may include on-site coaching for practice staff, e.g., one-on-one coaching sessions with a practice manager, a provider champion, and/or a small group of practice staff. The curriculum should be focused on building capabilities for effective population health management in a way that reduces the rate of growth in total cost of care while improving health, quality of care, and patient experience going beyond simply helping practices to meet the transformation milestones as defined in DCHI Consensus Paper.

### **3. Semi-annual assessment against milestones**

For each participating practice site, vendors should conduct an assessment of progress towards each practice transformation milestone. Assessments should be conducted every 6 months, noting milestones that have been achieved and any upcoming milestones that a practice site may be at risk of missing.

## **B. REPORTING REQUIREMENTS**

Vendors shall be responsible for providing the following reports in a format provided by HCC – including content requirements. At its discretion, HCC may share vendor reports with the Board of the DCHI.

1. **Start-up:** The vendor shall provide an initial report describing the vendor’s completion of start-up activities, including, but not limited to, hiring of new staff, development of provider outreach and enrollment plans, and readiness to begin engaging with providers. **The vendor shall submit a report on its provider outreach and enrollment approach within thirty (30) days, and a final start-up report with the remaining information, including proposed metrics for demonstrating progress and effectiveness, within sixty (60) days of the notice of contract award.**

2. **Monthly progress:** The vendor shall provide monthly progress reports to HCC, which may be shared with the DCHI Board of Directors. The progress report must include, but is not limited to, the following information:

- 1) list of practice sites enrolled;
- 2) current status of support for each site (e.g., pre-assessment transformation complete, tailored curriculum developed);
- 3) vendor activity for that month; and
- 4) any operating issues related to providing support, including, but not limited to, vendor capacity constraints or challenges with provider participation.

Vendor should propose a set of metrics to demonstrate progress and measure overall effectiveness and report on these to the HCC in these monthly progress reports.

3. **Practice participation:** The vendor shall report on a **quarterly basis** the participation by each practice site in transformation activities, including but not limited to, **practice enrollment, attendance at onsite coaching sessions, completion of online webinars, and participation in learning collaboratives.**

4. **Risks:** The vendor shall submit a Risks Report on “at-risk” practices that are unlikely to achieve some or all milestones on the required timeline. For each at-risk practice site, the vendor shall submit a corrective action plan jointly developed with the practice site. **The Risks Report shall be submitted quarterly.** The vendor shall include an addendum to the monthly progress report for all practice sites that have a corrective action plan describing progress against the plan.

5. **Semi-annual assessment:** The vendor shall submit a report every **six (6) months** upon completing an assessment of progress towards milestones at each practice site in accordance with the Delaware Center for Health Innovation Primary Care Practice Transformation Consensus Paper. The report shall describe the milestones that have been achieved by each practice site and provide summary statistics on the number of practice sites achieving each milestone for each enrollment wave.

**Quantitative Transformation Milestones will be used to measure each practices progress on population health management** (From the DCHI Practice Transformation Consensus Paper, pg. 9)

<b>6 months</b>	<b>12 months</b>	<b>18 months</b>	<b>24 months</b>
Identify the 5% of panel at the highest risk and highest priority for care coordination (6 months)	Supply voice-to-voice coverage to panel members 24/7 (e.g., patient can speak with a licensed health professional at any time) (12 months).	Implement a process for contacting patients who did not receive appropriate preventive care (18 months).	Implement a multi-disciplinary team working with highest-risk patients to develop care plans (24 months).
Provide same-day appointments and/or after-hours access to care (6 months).	Document sourcing and implementation plan for launching a multidisciplinary team working with the highest-risk patients to develop a care plan (12 months).		Document a plan for patients with behavioral health needs (24 months).
Implement a process for following up after hospital discharge (6 months)	Document plan to reduce emergency room overutilization (12 months).		



**EXHIBIT A**  
**BUDGET DESCRIPTION**  
**MIX AND INTENSITY OF REQUIRED SERVICES**

**A. AGREEMENTS AND ASSUMPTIONS**

NJAFP will provide Practice Transformation Services (PTS) for the Delaware Health Care Commission, in collaboration with the Delaware Center for Health Innovation (DCHI) to support primary care practice transformation in Delaware. The funding to support the PTS project is the result of a State Innovation Model (SIM) Test grant from the Center for Medicare and Medicaid Innovation (CMMI). Vendors participating in this project must be aware that collaboration with the CMMI federal agency may require occasional revisions to certain aspects of the State of Delaware's practice transformation services efforts. As such, a few elements are agreeable to all parties:

1. As indicated in the RFP, vendor payments will be paid on a per site per month (PSPM) basis for each practice enrolled in practice transformation efforts with a vendor. PSPM is subject to successful performance.

**Total payments under this contract shall not exceed \$1,200,000 which is based on a set budget of \$12,000 per practice site per year inclusive of overhead and management costs.**

2. NJAFP agrees to work in collaboration with HCC, the DCHI, and the HCC's state-led evaluation vendor (selection pending) to meet Delaware's evaluation requirements of the federal CMMI Cooperative Agreement program.
3. NJAFP agrees to propose a set of metrics, to be approved by the HCC, to demonstrate progress and measure overall effectiveness. These metrics will be reported via monthly progress reports which may be shared with the DCHI.
4. Each vendor selected under this RFP agrees to participate in one kick-off and subsequent quarterly Practice Transformation vendor meetings. Attendance may be required in person or may be conducted via conference call. These will be scheduled by the HCC as required to promote collaboration and streamline processes for the project.
5. Each monthly invoice must be accompanied by monthly progress reports as outlined in Appendix A. Purchase Order numbers must be documented on all invoices.

**Attachment 13: Mix and intensity of services provided**

In the tables below, describe the proposed units for each modality of service (e.g., 60 minutes of onsite coaching with the practice manager, 1 30-minute webinar with Q&A functionality) for the "basic" curriculum and the "advanced" curriculum (if different). For each modality, describe the average number of units of support provided in the curriculum for a typical practice and the average cost per unit. Assume a budget of \$12,000 annually per participating practice site, on average, regardless of starting point (i.e., "basic" or "advanced"). HCC reserves the right to enter into negotiations with selected vendors that may modify this budget, including scaling up or down the intensity of support in proportion with changes in the budget. Costs per unit should be inclusive of overhead and management costs.

**BASIC curriculum**

This curriculum should be targeted to practices that are at the beginning of the transformation process as described in the DCHI Consensus Paper (i.e., do not meet all or most of the transformation milestones).

Modality of service	Description	# units per PCP site	Cost per unit	Cost per PCP site
Pre-transformation assessment	Initial assessment to identify current capabilities and progress against transformation milestones, used to tailor curriculum	6 hours of initial assessment	\$ 110 per hour	\$ 660 per site per year of support
Semi-annual assessment	Semi-annual assessment of progress towards each practice transformation milestone	8 hours per semi-annual assessment	\$ 110 per hour	\$ 880 per site per year of support
Learning collaboratives	Small-group meetings of 5-15 practice sites, represented by office managers	16 hours of meetings per year of support	\$ 110 per hour	\$ 1760 per site per year of support
Large-format in-person training	Large-format trainings, conferences or symposia	8 hours of large-format training	\$ 110 per hour	\$ 880 per site per year of support
Live webinars	Hosted webinars with live Q&A	8 hours of live hosted webinars	\$ 110 per hour of hosted webinars	\$ 880 per site per year of support
Recorded online trainings (self-serve)	Self-serve, recorded webinars	8 recorded webinars	\$ 100 per webinar	\$ 800 per site per year of support
On-site coaching	One-on-one coaching with practice manager, physician champion, or small group at the practice site	40 hours of on-site coaching per year of support	\$ 115 per hour	\$ 4600 per site per year of support
Other	Just in time coaching; analysis and reporting; risk stratification; team meetings	12 hours	\$ 110 per hour	\$ 1320 per site per year of support
<b>Total per PCP site per year of support</b>				<b>\$11780 per site per year of support</b>

**Advanced curriculum:**

This curriculum should be targeted to practices that have completed transformation for Milestone #1 through Milestone #4 as described in the DCHI Consensus Paper.

<b>Modality of service</b>	<b>Description</b>	<b># units per PCP site</b>	<b>Cost per unit</b>	<b>Cost per PCP site</b>
Pre-transformation assessment	Initial assessment to identify current capabilities and progress against transformation milestones, used to tailor curriculum	8 hours of initial assessment	\$110 per hour	\$880 per site per year of support
Semi-annual assessment	Semi-annual assessment of progress towards each practice transformation milestone	8 hours per semi-annual assessment	\$110 per hour	\$880 per site per year of support
Learning collaboratives	Small-group meetings of 5-15 practice sites, represented by office managers	16 hours of meetings per year of support	\$110 per hour	\$1760 per site per year of support
Large-format in-person training	Large-format trainings, conferences or symposia	8 hours of large-format training	\$110 per hour	\$880 per site per year of support
Live webinars	Hosted webinars with live Q&A	8 hours of live hosted webinars	\$110 per hour of hosted webinars	\$880 per site per year of support
Recorded online trainings (self-serve)	Self-serve, recorded webinars	8 recorded webinars	\$100 per webinar	\$800 per site per year of support
On-site coaching	One-on-one coaching with practice manager, physician champion, or small group at the practice site	40 hours of on-site coaching per year of support	\$115 per hour	\$4600 per site per year of support
Other	Just in time coaching; analysis and reporting; risk stratification; team meetings	12 hours	\$110 per hour	\$1320 per site per year of support
<b>Total per PCP site per year of support</b>				<b>\$11780 per site per year of support</b>

**APPENDIX B**

REQUEST FOR PROPOSAL HSS-15-030

**EXHIBIT B**

NJAFP PROPOSALRESPONSE TO # HSS-15-030