

NANCY FAN., MD, 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
EDMONDO J. ROBINSON, MD, MBA
SUSAN A. CYCYK, M.ED.
DENNIS ROCHFORD
KAREN WELDIN STEWART

**PROFESSIONAL SERVICES AGREEMENT
for
SIM State-Led Evaluation
RFP No. HSS-15-055**

This Professional Services Agreement ("Agreement") shall commence on execution by the parties and terminate on January 31, 2017 unless specifically extended by an amendment, by and between the State of Delaware, Department of Health and Social Services, Health Care Commission ("Delaware"), and Concept Systems, Inc., (the "Vendor"), with an office at 136 East State Street; Ithaca, NY 14850.

WHEREAS, Delaware desires to obtain professional services to design, develop, and implement an infrastructure based on SIM grant State-Led evaluations; collect, compile, interpret, analyze, evaluate, and report data gathered through a variety of resources; and create pertinent reporting tools to facilitate State and Federal needs as described in RFP #HSS-15-055.

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 2; (c) the Statement of Work/Price Proposal, attached hereto as Appendix 1; and (d) Vendor's response to the request for proposals, attached hereto as Exhibit A. 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 (Services) 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 commence on execution by the parties and terminate on January 31, 2017 unless specifically extended by an amendment.
- 2.2. Delaware will pay Vendor for the performance of services described in Appendix 1, Statement of Work. The fee will be paid in accordance with the payment schedule attached hereto as part of Appendix 2.
- 2.3. Delaware's obligation to pay Vendor for the performance of services described in Appendix 1, Statement of Work will not exceed the fixed fee amount of \$249,916.68. 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 and consistent with specifications of the State's Budget and Accounting Manual 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
410 Federal Street, 3rd Floor
Margaret O'Neill Building – Suite 7
Dover, DE 19901
Attn: Eschalla Clarke, State Innovation Model project

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:

Partnership	SIM State-Led Team	Title	% of Project Involvement	Year 1 Hours	Hourly Rate: Feb - Nov	Hourly Rate: Dec - Jan
Contracted	Scott Rosas	Principal Evaluator	25.00%	470.00	156.92	163.20
Contracted	Jessica Gosa	Project Manager	30.00%	564.00	107.28	111.57
Contracted	Colleen Budzinski	Evaluation Research Associate	11.00%	206.80	107.28	111.57
Contracted	Steven Vedder	Evaluation Research Assistant	5.15%	96.82	80.05	83.25
Contracted	Ellen Slusar	Contract Administrator	1.25%	23.50	182.51	189.81
Subcontracted	Erin Knight	Evaluation Specialist	20.00%	376.00	79.53	79.53
Subcontracted	Mary Joan McDuffie	Evaluation Research Associate	10.00%	188.00	68.39	68.39
Subcontracted	Kathryn Gifford	Evaluation Research Assistant	50.00%	940.00	35.08	35.08
				2865.12	817.05	842.41

- 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 1.
- 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 1.

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 be documented as the product of, or 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.

19.4. Attachments incorporated by reference:

Appendix 1: Statement of Work/Price Proposal

Appendix 2: Request for Proposal

Exhibit A: Vendor Response to Proposal and Price Proposal

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's 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
410 Federal Street – 3rd Floor
Margaret O'Neill Building – Suite 7
Dover, Delaware 19901
ATTN: Eschalla Clarke - State Innovation Model project**

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 – Suite 7
410 Federal Street – 3rd Floor
Dover, Delaware 19901**

VENDOR:

**Concept Systems, Incorporated
136 East State Street
Ithaca, NY 14850**

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 Delaware Health Care Commission:

Signature on File

Laura Howard, Executive Director

N/A DA #1

Rita M. Landgraf, Secretary
Delaware Health and Social Services

2/18/16
Date

For the Contractor:

Signature on File

Ellen Slusar

Sr. Director operations + Finance
Title

February 3, 2016
Date

MAS 02/12/2016

STATEMENT OF WORK

SCOPE OF WORK

The Delaware Health Care Commission seeks to procure professional services to design, develop, and implement an evaluation infrastructure based on established and/or rapidly evolving requirements identified in the State Innovation Model; collect, compile, interpret, analyze, evaluate, and report data gathered through a variety of resources; and create pertinent reporting tools to facilitate State and Federal needs.

OVERVIEW

Through the State Innovation Model Test Grant and the Design Grant that preceded it, Delawareans have come together in an unprecedented collaborative effort to develop and implement a multi-stakeholder plan to improve health, health care quality and patient experience, and reduce the growth rate in health care costs. Delaware has developed a bold plan to improve on each dimension of the Triple Aim, plus one: to be one of the five healthiest states, to be among the top 10% of states in health care quality and patient experience, to bring the growth of health care costs in line with GDP growth, and to improve the provider experience.

The core elements of this plan include: 1) supporting local communities to work together to enable healthier living and better access to primary care; 2) transforming primary care so that every Delawarean has access to a primary care provider and to better coordinated care—between primary care and behavioral health, other specialists, and hospitals—for those patients with the greatest health needs; 3) across all payers, including Medicare, Medicaid, State Employees, and major commercial payers, shifting to payment models that reward high quality and better management of costs, with a common scorecard; 4) developing the technology needed for providers to access better information about their performance and for consumers to engage in their own health; and 5) providing the resources to the current health care workforce to transition to team-based care and employing strategies to develop the future workforce to meet the diverse needs of Delaware's population.

While Delaware's approach is consensus-based, the State will use its purchasing and regulatory authority to support these changes, including through its requirements for Medicaid Managed Care Organizations and Qualified Health Plans on the Health Insurance Marketplace. Governor Markell and other public and private-sector leaders from across the state remain committed to the success of this initiative.

Through this plan Delaware aims for 90% of Delaware's 1,267 primary care physicians to participate, as well as advanced practice nurses practicing under the Collaborative Agreement, improving health and health care for nearly 800,000 beneficiaries across Medicare, Medicaid, State Employees, and major commercial payers.

FUNDING

The awarded contract cannot exceed \$250,000 annually.

CONTRACT TERM

The contract term and period of performance will commence on February 1, 2016 and extend through January 30, 2017; or unless otherwise specified by mutual agreement of both parties.

YEAR 1 - WORK PLAN / MILESTONES

4.3.1 Infrastructure and Evaluation Systems Development

Primary Objectives: (1) Establish project management and required evaluation infrastructure to ensure timely completion of required objectives and outcomes. (2) Provide all necessary and requested reports on a monthly, quarterly and annual basis in a variety of formats.

Proposed work plan and general timeline:

1.0	Establish and refine project management, communication, and reporting processes.	
1.1	Convene kickoff meeting to engage representatives of the user groups to identify: <ul style="list-style-type: none"> • evaluation priorities and goals • preferred evaluative criteria • preferred evaluation approach • intended uses of findings, nature and timing of needed reports • and concerns related to the projected evaluation 	Q1, Y1
1.2	Develop comprehensive operational plan to guide the evaluation for review and approval by HCC within 60 days. The plan will include: <ul style="list-style-type: none"> • evaluation goals, key objectives/milestones and associated tasks, • performance targets and timeline • anticipated cost to achieve each objective 	Q1, Y1
1.3	Establish schedule of standing meeting/check-ins with HCC staff, SIM Evaluation Collaborative and other interested parties. Specify availability for ad hoc teleconference meetings as needed.	Q1, Y1
2.0	Implement ongoing project management and reporting activities.	

2.1	Provide monthly progress reports to HCC listing: <ul style="list-style-type: none"> activities, meetings and deliverables. any issues and proposed solutions. 	Ongoing
2.2	Provide quarterly evaluation summary reports outlining the progress of the evaluation, key findings to date and other relevant information.	Ongoing
2.3	Assist work stream committees in developing and updating quarterly SIM performance dashboards on identified core quality/ performance measures.	Ongoing
2.4	Provide comprehensive annual report. Report will provide information on progress and finding across all aspects of the SIM grant. Additional elements will include: <ul style="list-style-type: none"> challenges encountered during evaluation risks identified and related mitigation strategies lessons learned and best practices recommendations for additional measures and future evaluation opportunities. 	Q4, Y1 Q4, Y2 Q4, Y3 Q4, Y4
2.5	Schedule annual face-to-face meeting after submission of annual report. Engage HCC staff to develop agenda for meeting and provide progress report highlighting best practices, lessons learned and other beneficial topics for SIM partners.	Q4, Y1 Q4, Y2 Q4, Y3 Q4, Y4
3.0	Develop operational plan and launch DE SIM Evaluation Collaborative	
3.1	Develop operational plan for management and implementation of the SIM Evaluation Collaborative that will include: <ul style="list-style-type: none"> strategies to assess and approve potential evaluation activities. a schedule for meeting and interaction of members effective communication and reporting mechanisms to explain evaluation processes and disseminate findings 	Q1, Y1
3.2	Identify and recruit researchers/evaluators to participate in SIM Evaluation Collaborative forming a capable oversight group to initiate, evaluate, and advance evaluation processes throughout the initiative	Q1, Y1
3.3	Establish a charter outlining expectations, purpose, and activities of the SIM Evaluation Collaborative	Q1, Y1
4.0	Evaluation model and system development	
4.1	Facilitate a logic model development activity to explicate the logic underlying the DE SIM initiative and examine the relevant policy, political, cultural, organizational, and historical contexts.	Q2, Y1
4.2	Determine the overall evaluation components that will guide the evaluation, taking into account logic model, stakeholder preferences, previous and current evaluation efforts, and Federal SIM evaluation activities.	Q2, Y1

4.3	Create and vet the methodological framework(s) within which information will be collected to ensure that each main evaluation question is addressed by multiple methods and/or multiple data points on a given method.	Q2, Y1
4.4	Identify the sources of the needed information to examine logic model pathways and address evaluation questions.	Q2, Y1
4.5	Determine the instruments and measurement methods for collecting the needed information in relation to logic model specification and different evaluation purposes (implementation, outcome).	Q2, Y1
4.6	Specify the sampling procedure(s) to be employed with each method, e.g., purposive, probability, and/or convenience.	Q2, Y1
4.7	Establish a general schedule for data collection, depicting times when each information source and each information collection device will be engaged.	Q2, Y1
4.8	Specify authority and responsibility for collecting the respective sets of information.	Q2, Y1
5.0	Implement ongoing project management, reporting and DE SIM Evaluation Collaborative activities.	
5.1	In consultation with HCC establish, convene and assist in the facilitation of a routine SIM Evaluation Collaborative teleconference meeting, based on agreed upon frequency.	Ongoing
5.2	Use evaluation personnel effectively to support the work of the SIM Evaluation Collaborative	Ongoing
5.3	Establish a feedback mechanism in the decision-making process and an effective communication system to facilitate learning from evaluation activities.	Ongoing
5.4	Facilitate ongoing learning activities through which stakeholders interact around evaluation processes and results.	Ongoing
5.5	Provide opportunities for both individual and group reflection on successes, challenges, and failures of the initiative and improvement efforts.	Ongoing
5.6	Secure exemption from Human Subjects Review for evaluation activities, if necessary.	Q1, Y1

4.3.2 Implementation/Process Evaluation

Primary Objective: Design and facilitate an implementation/process evaluation that will comprehensively describe the characteristics of communities and health care settings where SIM will be implemented and gather qualitative and quantitative data from providers, consumers, and health systems to assess perceptions, identify challenges and inform the development of strategies for success.

Key Implementation/Process Evaluation Questions: What factors influence the adoption and spread of SIM model innovations? To what extent are SIM model components implemented consistently and with fidelity? What system, practice, and beneficiary level factors are associated with SIM outcomes?

Proposed general work plan and timeline:

1.0	Design detailed implementation/process evaluation plan, including data collection, evaluation methods and rapid cycle feedback protocols.	
1.1	Prepare and lead Evaluation Collaborative planning discussion that includes: <ul style="list-style-type: none">• review of SIM goals and priorities related to implementation• identify priority implementation/process evaluation questions and desired information• identify the major level(s) of audiences to be served by the implementation/process evaluation• identify and address potential barriers and consequences of the implementation/process evaluation	Q1, Y1
1.2	Review and revise the previously developed logic model underlying the DE SIM Initiative; establish process evaluation parameters within the context of logic model.	Q2, Y1
1.3	Review and revise the data collection plan in relationship to available resources, feasibility, importance, and other constraints.	Q2, Y1
1.4	Identify and list the basis (i.e., referents) for interpreting findings to include assessed needs of beneficiaries, initiative objectives, mandated standards, national norms, costs and performance estimates, judgments by experts, and judgments by stakeholders.	Q2, Y1
1.5	Determine and develop the needed quantitative analysis procedures and devices, which include descriptive statistics; inferential statistics, as well as comparative and longitudinal analyses.	Q2, Y1
1.6	Determine and develop the needed qualitative analysis procedures, which may include qualitative thematic analysis, content analysis, summaries, or case-study scenarios.	Q2, Y1
1.7	Determine and develop procedures for synthesizing quantitative and qualitative information, which may include the following by embedding quantitative information within a qualitative narrative or by qualitative findings in the discussion of quantitative findings.	Q2, Y1
1.8	Finalize implementation/process evaluation design plan and present to HCC within the first three months of the initiation of the service agreement	Q2, Y1

1.9	Finalize rapid cycle improvement protocols for review and feedback of evaluation results to SIM partners and stakeholders.	Q2, Y1
2.0	Implement implementation/process evaluation by <ul style="list-style-type: none"> • initiating data collection and rapid cycle review and feedback of study findings and results • controlling and directing the evaluation efficiently 	
2.1	Develop and implement rapid cycle improvement protocols for review and feedback of evaluation results to SIM partners and stakeholders.	Q3, Y1 - Ongoing
2.2	Initiate data collection for implementation/process evaluation - Convene provider/practice site visits, key informant interviews, consumer engagement forums, and stakeholder meetings as outlined in evaluation design.	Q3, Y1 - Ongoing
2.3	Implement data collection analysis procedures for implementation/process evaluation consistent with HCC-approved plan.	Q3, Y1 - Ongoing
2.4	Establish data quality review procedures to effectively manage data collection to ensure data quality and evaluation credibility.	Q3, Y1 - Ongoing
2.5	Routinely report to the SIM Evaluation Committee the progress to date on data collection and analysis procedures	Q3, Y1 - Ongoing
2.6	Report emergent and interim findings to primary intended users to keep them interested and engaged	Q3, Y1 - Ongoing
2.7	Develop and initiate sampling plan based on agreed upon randomization models	Q3, Y1 - Ongoing
2.8	Revise implementation/process evaluation processes and procedures based on stakeholder review and feedback.	Ongoing
3.0	Utilize implementation/process evaluation results to identify areas and actions for improvement.	
3.1	Develop quarterly implementation data reports to document progress and update status of SIM model implementation to inform and guide the implementation process.	Q3, Y1 - Ongoing
3.2	Using implementation study data facilitate ongoing strategic planning sessions with SIM partners and stakeholders to identify implementation challenges and guide rapid cycle improvements.	Q3, Y1 - Ongoing
3.3	Prepare and facilitate training/learning sessions for SIM partners and stakeholders on rapid cycle improvement processes using implementation/process evaluation data.	Q3, Y1 - Ongoing
3.4	Develop annual report and presentation on the SIM implementation/process study status and findings.	Q3, Y1 - Ongoing
3.5	Incorporate as appropriate new findings from quality improvement efforts and rapid-cycle processes into revised outcome/impact evaluation activities.	Ongoing

4.3.3 Outcome/Impact Evaluation

Primary Objectives: Support the State of Delaware and facilitate the analysis of changes in health care service utilization, costs and returns on investment linked to SIM initiatives, including planned primary care and behavioral health practice innovations. Design and implement multiple investigations aimed at testing the impact and effectiveness of SIM interventions.

Key Outcome/Impact Evaluation Questions: Does the SIM model implementation lead to changes in service utilization patterns and reduced costs? If so, to what extent? Does the model lead to improvements in care coordination and less fragmentation of care and, if so, for what populations and to what extent? Does the model lead to improvements in quality and processes of care and, if so, to what extent? To what extent does the model improve the level of integration of physical and behavioral health across Delaware's health care system? Does the model lead to improvements in beneficiary health, well-being, function, and reduced health risk behaviors, and if so, to what extent?

Proposed general work plan and timeline:

1.0	Design detailed Outcome/Impact evaluation plan and present to HCC within the first three months of the initiation of the agreement; plan to include data collection, evaluation methods and rapid cycle feedback protocols.	
1.1	Prepare and lead Evaluation Collaborative planning discussion that includes: <ul style="list-style-type: none"> • review of SIM goals and priorities related to implementation • identify priority implementation/process evaluation questions and desired information • identify the major level(s) of audiences to be served by the implementation/process evaluation • identify and address potential barriers and consequences of the outcome/impact evaluation 	Q1, Y1
1.2	Review and revise the previously developed logic model underlying the DE SIM Initiative; establish process evaluation parameters within the context of logic model.	Q2, Y1
1.3	Obtain data use agreements for all data required for evaluation from all related parties.	Q2, Y1
1.4	Develop data specifications and obtain data necessary for outcome/impact evaluation.	Q2, Y1
1.5	Review and revise the data collection plan in relationship to available resources, feasibility, importance, and other constraints.	Q2, Y1
1.6	Identify and obtain agreement on study measures and data sources for use in assessing the impact and effectiveness of SIM interventions	Q2, Y1
1.7	Identify and obtain approval from HCC on measures and data sources that will provide a comprehensive and complete view of the impact SIM innovations have on reducing health care costs utilization and costs.	Q2, Y1

1.8	Identify and list the basis (i.e., referents) for interpreting findings to include assessed needs of beneficiaries, initiative objectives, mandated standards, national norms, costs and performance estimates, judgments by experts, and judgments by stakeholders.	Q2, Y1
1.9	Determine and develop the needed quantitative analysis procedures and devices, which include descriptive statistics; inferential statistics, as well as comparative and longitudinal analyses.	Q2, Y1
1.10	Determine and develop the needed qualitative analysis procedures, which include qualitative thematic analysis, content analysis, summaries, or case-study scenarios.	Q2, Y1
1.11	Determine and develop procedures for synthesizing quantitative and qualitative information, which may include the following by embedding quantitative information within a qualitative narrative or by qualitative findings in the discussion of quantitative findings.	Q2, Y1
1.12	Finalize implementation/process evaluation design plan and present to HCC within the first three months of the initiation of the service agreement	Q2, Y1
1.13	Finalize rapid cycle improvement protocols for review and feedback of evaluation results to SIM partners and stakeholders.	Q2, Y1
2.0	Implement outcome/impact evaluation by <ul style="list-style-type: none"> • initiating data collection and rapid cycle review and feedback of study findings and results • controlling and directing the evaluation efficiently 	
2.1	Develop and implement rapid cycle improvement protocols for review and feedback of evaluation results to SIM partners and stakeholders.	Q3, Y1 - Ongoing
2.2	Initiate data collection for outcome/impact Evaluation - Convene provider/practice site visits, key informant interviews, consumer engagement forums, and stakeholder meetings as outlined in evaluation design.	Q3, Y1 - Ongoing
2.3	Implement data collection analysis procedures for outcome/impact Evaluation consistent with HCC-approved plan.	Q3, Y1 - Ongoing
2.4	Implement data collection/extraction for outcome/impact evaluation to assess the effects of the planned Innovation Model interventions on process of care, clinical quality outcomes, and member experiences of care.	Q3, Y1 - Ongoing
2.5	Establish data quality review procedures to effectively manage data collection to ensure data quality and evaluation credibility.	Q3, Y1 - Ongoing
2.6	Routinely report to the SIM Evaluation Committee the progress to date on data collection and analysis procedures	Q3, Y1 - Ongoing
2.7	Report emergent and interim findings to primary intended users to keep them interested and engaged	Q3, Y1 - Ongoing
2.8	Develop and initiate sampling plan based on agreed upon randomization models.	Q3, Y1 - Ongoing

2.9	Perform periodic review and assessment to ensure that the evaluation design accounts for outside drivers of costs and utilization that might affect the assessment of cost effectiveness.	Q3, Y1 - Ongoing
2.10	Prepare utilization and cost data sets and perform analyses to measure change in service utilization, expenditures, per capita expenditures, savings and ROI.	Q3, Y1 - Ongoing
2.11	Develop study analytic files and perform data analysis including: pre and post-analyses using quality, process and member experience of care measures.	Q3, Y1 - Ongoing
2.12	Employ univariate and multivariate analytical approaches assess pre-participation clinical, process and quality measures with post participation data.	Q3, Y1 - Ongoing
3.0	Utilize outcome/impact evaluation results to identify areas and actions for improvement.	
3.1	Develop quarterly implementation data reports to document progress and update status of SIM model outcomes/impacts to inform and guide the quality improvement processes.	Q3, Y1 - Ongoing
3.2	Based on data analyses, create data summaries and reports that provide multiple views of the effectiveness of SIM innovations on clinical, quality of care and patient experience outcomes.	Q3, Y1 - Ongoing
3.3	Using outcome/impact study data facilitate ongoing strategic planning sessions with SIM partners and stakeholders to identify implementation challenges and guide rapid cycle improvements.	Q3, Y1 - Ongoing
3.4	Prepare and facilitate training/learning sessions for SIM partners and stakeholders on rapid cycle improvement processes.	Q3, Y1 - Ongoing
3.5	Develop annual report and presentation on the SIM outcome/impact study status and findings.	Q3, Y1 - Ongoing
3.6	Prepare a series of reports using the data analytical files providing multiple views of impacts in each intervention on spending and utilization trends over the testing period.	Q3, Y1 - Ongoing
3.7	Assist in the development of quarterly performance monitoring reports for SIM leadership, partners and stakeholders	Q3, Y1 - Ongoing
3.8	Incorporate as appropriate new findings from quality improvement efforts and rapid-cycle processes into revised outcome/impact evaluation activities.	Ongoing
3.9	Collaborate with SIM leadership to identify, implement and evaluate data-driven opportunities for provider focused quality improvements projects	Q3, Y1 - Ongoing