

AMENDMENT

It is agreed between the State of Vermont, Department of Vermont Health Access (hereinafter called "State") and Bi-State Primary Care Association (hereinafter called "Subrecipient") with principal place of business at Montpelier, VT that the grant #04310-1456-15 dated November 10, 2014 is to be amended January 1, 2016 as follows:

1. By striking out on page 1, item #1, of the Base agreement and substituting in lieu thereof:

1. Parties: This is a Grant Agreement for services between the State of Vermont, Department of Vermont Health Access (hereafter called "State"), and Bi-State Primary Care Association, Inc. with a principal place of business at 525 Clinton Street, Bow, NH 03304 (hereafter called "Subrecipient"). It is the Subrecipient's responsibility to contact the Vermont Department of Taxes to determine if, by law, the Subrecipient is required to have a Vermont Department of Taxes Business Account Number.

2. By striking out on page 1, items #3-11, of the Base agreement and substituting in lieu thereof:

3. Award Details: Amounts, dates and other award details are as shown in the attached *Grant Agreement Part 1-Grant Award Detail*. A detailed scope of work covered by this award is described in Attachment A.

4. Maximum Amount: In consideration of the services to be performed by Subrecipient, the State agrees to pay Subrecipient, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$1,406,833.09.

Work performed between January 1, 2016 and the signing or execution of this amendment that is in conformity with Attachment A may be billed under this agreement.

5. Contract Term: The period of Subrecipient's performance shall begin on **November 10, 2014** and end on **December 31, 2016**.

6. Source of Funds: Federal \$1,406,833.09 State \$ Other \$

7. Federal Funds Information:

CFDA Title: State Innovation Models (SIM)

CFDA Number: 93.624

Award Name: State Innovation Models: Funding for Model Design

Award Number: 1G1CMS331181

Award Year: FFY14

Federal Granting Agency: Centers for Medicare & Medicaid Services

Research and Development Grant? Yes No

8. Amendment: No changes, modifications, or amendments in the terms and conditions of this grant shall be effective unless reduced to writing, numbered, and signed by the duly authorized representative of the State and Subrecipient.

9. Cancellation: This grant agreement may be suspended or cancelled by either party by giving the other party written notice at least 30 days in advance. Notwithstanding this provision, if a governmental agency with due authority determines that a program or facility operated by the Subrecipient, wherein services authorized under this grant are provided, is not in compliance with State and Federal law the State may terminate this grant immediately and notify the Subrecipient accordingly. Also, in the event that federal funds supporting this grant become unavailable or are reduced, the State may cancel this grant with no

obligation to pay the Subrecipient from State revenues.

10. Contact Persons for this Award are as Follows:

	<u>State Fiscal Manager</u>	<u>State Program Manager</u>	<u>Subrecipient</u>
Name:	Leah Korce	Georgia Maheras	Kate Simmons
Phone#:	802-878-7981	802-505-5137	802-229-0002 x.217
E-mail:	leah.korce@vermont.gov	georgia.maheras@vermont.gov	ksimmons@bistatepca.org

NOTICES TO THE PARTIES UNDER THIS AGREEMENT

To the extent notices are made under this agreement, the parties agree that such notices shall only be effective if sent to the following persons as representative of the parties:

	STATE REPRESENTATIVE	SUBRECIPIENT
Name	Office of General Counsel	Kate Simmons Director, Vermont Operations Bi-State Primary Care Association
Address	312 Hurricane Lane, Suite 201 Williston, VT 05495	61 Elm Street Montpelier, VT 05602
Email	Howard.Pallotta@vermont.gov	ksimmons@bistatepca.org

The parties agree that notices may be sent by electronic mail except for the following notices which must be sent by United States Postal Service certified mail: termination of contract, contract actions, damage claims, breach notifications, alteration of this paragraph.

DVHA MONITORING OF AGREEMENT

The parties agree that the DVHA official State Program Manager is primarily responsible for the review of invoices presented by the Subrecipient.

- 11. **Fiscal Year:** Subrecipient’s fiscal year starts on July 1 and ends on June 30.
- 12. **Attachments:** This Agreement consists of 28 pages including the following attachments which are incorporated herein:
 - Attachment A – Scope of Work to be Performed
 - Attachment B – Payment Provisions
 - Attachment C – Standard State Provisions: For Grants and Contracts
 - Attachment E – Business Associate Agreement
 - Attachment F – Standard State Provisions: AHS Customary Contract Provisions
 - Appendix I – Required Forms

Order of precedence of these documents shall be as follows:

1. This Document
2. Attachment C – Standard State Provisions: For Grants and Contracts
3. Attachment A – Scope of Work to be Performed
4. Attachment B – Payment Provisions
5. Attachment E – Business Associate Agreement
6. Attachment F – Standard State Provisions: AHS Customary Contract Provisions
7. Appendix I – Required Forms

3. Attachment A: By replacing in its entirety with the following revised version:

**ATTACHMENT A
SCOPE OF WORK TO BE PERFORMED**

I. Background:

This grant agreement relates to health care innovation services provided by the Subrecipient. In 2013, the State was awarded a State Innovation Model (SIM) federal grant to support the work outlined below as part of the Vermont Health Care Innovation Project (VHCIP).

This agreement supports the following:

- Contractor's efforts to identify and improve health for at risk populations through building the administrative and leadership capacity of Community Health Accountable Care, LLC (CHAC) Accountable Care Organization (ACO) and through developing a care management model, including acquiring care management tools, for CHAC.
- Contractor's work to report CHAC's ACO quality measures for Program Year 2014 and 2015
- Contractor's core staffing and capacity in support of CHAC for the period of July 1, 2016 through December 31, 2016.

II. Scope of Work / Deliverables:

A. Subrecipient Shall:

1. Provide leadership for CHAC's activities regarding budget, quality improvement, data repository and reporting services in collaboration with CHAC's senior management staff.
2. Develop and implement a care management model. Such work shall include:
 - a. Identification, selection, and acquisition of care management tools;
 - i. Implementation of telemonitoring intervention: Contractor shall engage (1) vendor Pharos Innovations, LLC and (2) a care coordination vendor organization to implement a telemonitoring clinical intervention focusing on Medicare beneficiaries with complex conditions with the goal of reducing hospitalizations. This intervention will provide approximately 20 phone calls/month/enrolled patient, and include technology to flag patients at risk for hospitalization who require clinical follow up.
 - ii. Implementation of analytics solution for CHAC's claims data before or during ACO PY2016.
3. Prepare ACO quality reporting submissions for the 2014 and 2015 Program Years for the:
 - a. Medicare Shared Savings Program
 - b. Medicaid Shared Savings Program
 - c. Commercial Shared Savings Program
4. Resource permitting, support systems development for ongoing ACO quality reporting for all programs.
5. For the period of July 1, 2016 through November 30, 2016

- a. Hire and maintain appropriate staffing for project, including a CHAC Director and Project Coordinator.
- b. Execute and monitor activities, including a quality compliance program, to ensure compliance with CHAC's Medicaid and Commercial Shared Savings Program and regulatory Agreements and requirements.
- c. Recruit providers who will participate and collaborate with CHAC.
- d. Complete reporting for CHAC's Medicaid and Commercial Shared Savings Program Agreements according to schedule.
- e. Plan, staff and support CHAC's Board of Directors Meetings.
- f. Plan, staff and support CHAC's Clinical, Financial, Consumer Advisory Panel, and Operations Committees in collaboration with the respective Chairs.
- g. Maintain CHAC's website to meet compliance requirements, and provide general information for beneficiaries and the public.
- h. Represent CHAC at State meetings.

6. Prepare and present programmatic reports to the VHCIP work groups, Steering Committee or Core Team as requested.

7. Adhere to the following Deliverables and Implementation Timeline chart as it appears under section IV of this Attachment.

III. Monthly Reporting:

A. The Subrecipient shall prepare and submit to the State quarterly programmatic status reports no later than the 10th of the month following the 3 month period being reported. The reports shall include a narrative summary outlining specific progress on projects as directed by the reporting templates provided. The reporting schedule is as follows:

- a. 2015: January 10 (for the months of November and December 2014), April 10, July 10, October 10
- b. 2016: January 10, April 10, July 10, October 10
- c. Final Report Due: November 30, 2016

IV. Deliverables and Implementation Timeline Chart:

STATE OF VERMONT STANDARD GRANT AGREEMENT BI-STATE PRIMARY CARE ASSOCIATION GRANT #: 03410-1456-15 Deliverables and Implementation Timeline for VCHIP Provider Grant Proposed Activities.				
Activities	Anticipated Outcomes	Milestone	Implementation Timeline	Person Responsible
Need: Vermont and the nation have identified the need to develop new systems and structures to reduce rising health expenditures while maintaining and improving the quality of care				
Goal: Improve health outcomes for CHAC's "rising risk" population				
Objective: Develop and implement a care management model for CHAC designed to improve coordination and impact total cost of care for "rising risk" population.				
<i>Contract with Pharos Innovations, LLC, a telemonitoring</i>	Vendors engaged 300+ patients enrolled by 6/30/15	Vendor contract executed	By 12/1/2014	Director of VT Operations

<p><i>services vendor to implement clinical intervention targeting rising risk population</i></p> <p><i>Contract or staff care coordination component of telemonitoring intervention</i></p> <p><i>Implement Intervention</i></p> <p><i>Evaluate Intervention</i></p>	<p>Intervention rolled out at 3+ FQHCs by 6/30/15</p> <p>Clinical intervention will reduce hospitalizations for enrolled patients, impacting quality and total cost of care.</p>	<p>Vendor contract executed or staff hired</p> <p>300+ patients enrolled by 12/31/15</p> <p>Intervention rolled out at 3+ FQHCs by 6/30/15</p> <p>Evaluate claims data</p>	<p>By 12/31/2014</p> <p>By 12/31/2015</p> <p>By 6/30/2015</p> <p>By 3/30/2016</p>	
<p><i>Extend Contracts with Pharos Innovations, LLC and VNAs of VT to extend existing telemonitoring program through November 2016</i></p>	<p>300+ patients enrolled throughout CY16</p>	<p>Amendment to Vendor Contract executed between Bi-State and Pharos Innovations LLC.</p> <p>Amendment to Vendor Contract executed between Bi-State and VNAs of VT.</p>	<p>By 4/30/2016</p> <p>By 12/31/2015</p>	<p>Director of VT Operations</p> <p>Director of VT Operations</p>
<p>Need: CHAC must complete ACO quality reporting as part of participation in the Medicare, Medicaid, and Commercial Shared Savings Programs.</p>				
<p>Goal: Implement an ACO quality reporting process that is compliant and enables CHAC to identify QI opportunities</p>				
<p>Objective: Complete ACO quality reporting for Program Years 2014 and 2015, per program deadlines.</p>				

<i>Develop ACO QI Reporting Plan</i>	Plan identified that is as efficient as possible and customized to needs of individual health centers.	Workplan developed	By 1/26/15	Project Manager
<i>Identify and procure resources needed to implement plan.</i>	IT and human resources are identified and procured.	IT purchases made; temp agency contract executed; individual temp workers identified	By 1/26/15	Director VT Operations
<i>Conduct data abstraction for PY2014</i>	PY14 data aggregated, per program specific guidelines	PY14 data submitted, per program specific guidelines	By 4/30/15	Director VT Operations
<i>Conduct data abstraction for PY2015</i>	PY15 data aggregated, per program specific guidelines	PY15 data submitted, per program specific guidelines	By 6/30/16	Director VT Operations
<i>Resource permitting, develop systems for ongoing measure reporting</i>	Supportive systems developed	Supportive systems developed	By 12/31/16	Director VT Operations
<p>Need: While CHAC has implemented an intervention program for the Medicare population, it has been a challenge to create viable interventions for the Medicaid and Commercial populations. An analytics solution would enable Bi-State and CHAC members to address this challenge by identifying key areas for quality improvement that would lead to innovative interventions in an effort to reduce admissions and readmissions for the Medicaid, Medicare and/or Commercial populations.</p>				
<p>Goal: Implement an analytics solution that allow CHAC to identify high-cost or high-utilizing patients across the spectrum, track interventions, identify transitions in care, ED utilization, and compare its quality against ACO quality benchmarks.</p>				
<p>Objective: Share initial reports from claims-based analytics solution with CHAC Board and/or appropriate committees by July 2016.</p>				
<i>Explore possible analytics solutions</i>	CHAC determines most important features of analytics solution	3+ possible analytics solutions identified	By 1/15/2016	Director VT Operations
<i>Select analytics solution</i>	Top analytics solution identified	Top analytics solution identified	By 2/15/2016	Director VT Operations
<i>Contract with analytics solution</i>	Contract negotiated and executed	Contract negotiated and executed	By 3/31/2016	Director VT Operations
<i>Implement analytics solution</i>	Implementation plan developed	Implementation completed for at least	By 5/31/2016	Director VT Operations

<i>Utilize analytics solution for reporting</i>	Reports shared with CHAC Board and Committees	one claims feed Reports shared with CHAC Board and Committees	By 6/30/2016	Director VT Operations
Need: Bi-State has developed core staffing and capacity for CHAC that must be sustained through the completion of the Shared Savings Programs. Existing funding for core staffing and capacity will conclude June 20, 2016.				
Goal: Maintain CHAC's status as a compliant Shared Savings Program through November 30, 2016.				
Objective: Maintain CHAC's core staffing and capacity between July 1, 2016 and November 30, 2016.				
<i>Maintain participation in all PY16 shared savings programs between July 1, 2016 and November 30, 2016.</i>	CHAC successfully completes shared savings program contracts.	Various implementation reports submitted per deadlines.	Through 12/31/16	Director, VT Community Health Payment Systems
<i>Support CHAC Board and Committee structure between July 1, 2016 and November 30, 2016.</i>	CHAC Board and Committees continue to direct CHAC initiatives and priorities through November 2016.	CHAC Board meetings will occur monthly between July 1, 2016 and November 30, 2016.	Through 12/31/16	Director, VT Community Health Payment Systems

V. Subrecipient Requirements:

A. Subrecipient Requirements for Subcontracting

Per Attachment C, Section 15, if the Subrecipient chooses to subcontract additional work under this agreement, the Subrecipient must first fill out and submit the Request for Approval to Subcontract Form (Appendix I- Required Forms) in order to seek approval from the State prior to signing an agreement with a third party. Upon receipt of the Request for Approval to Subcontract Form, the State shall review and respond within five (5) business days. Under no circumstance shall the Subrecipient enter into a sub-agreement without prior authorization from the State. The Subrecipient shall submit the Request for Approval to Subcontract Form electronically to:

Leah Korce, Grants Management Specialist
 Business Office, Contracting Unit
 Department of Vermont Health Access
Leah.Korce@vermont.gov

Should the status of any third party or Subrecipient change, the Subrecipient is responsible for updating the State within fourteen (14) days of said change.

B. List of Approved Subcontractors

The following subcontractors are approved under this agreement:

Pharos Innovations, LLC
 Todd J. Shannon, Vice President Sales
 Two Northfield Plaza, Suite 201

Northfield IL 60093
Phone: (224) 688-0802

Scope of work: Telemonitoring clinical intervention focusing on Medicare beneficiaries with complex conditions.

TLC Nursing Associates

Abi Ambekar
56 West Twin Oaks Terrace, Suite 1
South Burlington, VT 05403
Phone: (802) 735-1123

Scope of work: Temporary staffing to perform ACO Quality Reporting data extraction.

VNAs of Vermont

Peter Cobb, Executive Director
137 Elm Street
Montpelier, VT 05602
Phone: (802) 229-0579

Scope of work: Triage care coordination in conjunction with telemonitoring intervention. VNAVt intends to subcontract with Central Vermont Home Health and Hospice.

Westaff, Inc.

Hailee May
1 Conti Circle
Barre, VT 05641
(802) 477-4700

Scope of work: Temporary staffing to perform ACO Quality Reporting data extraction.

C. Federal Regulations

As a subrecipient of federal funds, the recipient is required to adhere to the following federal regulations:

- A-110: "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations" (OMB Circular A-110);
- A-122: "Cost Principles for Non-Profit Organizations" (OMB Circular A-122); and
- A-133: "Audits of States, Local Governments and Non-Profit Organizations" (OMB Circular A-133)

These circulars may be found on the Office of Management and Budget website at: <http://www.whitehouse.gov/omb/circulars/index.html>.

For Agreements that extend beyond 2014:

2 CFR Chapter I, Chapter II, Part 200, et al.: "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule" <http://www.gpo.gov/fdsys/pkg/FR-2013-12-26/pdf/2013-30465.pdf>.

HHS Grant Policy Statement - Subawards (pg. II-78):

The recipient is accountable to the OPDIV for the performance of the project, the appropriate expenditure of grant funds by all parties, and all other obligations of the recipient, as specified in the HHS GPS. In general, the requirements that apply to the recipient, including the intellectual property and program income requirements of the award, also apply to subrecipients. The recipient is responsible for including the applicable requirements of the HHS GPS in its subaward agreements.

The recipient must enter into a formal written agreement with each subrecipient that addresses the arrangements for meeting the programmatic, administrative, financial, and reporting requirements of the grant, including those necessary to ensure compliance with all applicable Federal regulations and policies. **At a minimum, the subaward agreement must include the following:**

- Identification of the PI/PD and individuals responsible for the programmatic activity at the subrecipient organization along with their roles and responsibilities.
- Procedures for directing and monitoring the programmatic effort.
- Procedures to be followed in providing funding to the subrecipient, including dollar ceiling, method and schedule of payment, type of supporting documentation required, and procedures for review and approval of expenditures of grant funds.
- If different from those of the recipient, a determination of policies to be followed in such areas as travel reimbursement and salaries and fringe benefits (the policies of the subrecipient may be used as long as they meet HHS requirements).
- Incorporation of applicable public policy requirements and provisions indicating the intent of the subrecipient to comply, including submission of applicable assurances and certifications.

For research subawards, inclusion of the following:

- Statement specifying whether the financial conflict of interest requirements of the collaborating organization or those of the recipient apply.
- Provision addressing ownership and disposition of data produced under the agreement.
- Provision making the sharing of data and research tools and the inventions and patent policy applicable to the subrecipient and its employees in order to ensure that the rights of the parties to the agreement are protected and that the recipient can fulfill its responsibilities to the OPDIV. This provision must include a requirement to report inventions to the recipient and specify that the recipient has the right to request and receive data from the subrecipient on demand.
- Provisions regarding property (other than intellectual property), program income, publications, reporting, record retention, and audit necessary for the recipient to fulfill its obligations to the OPDIV.

Federal Funding Accountability and Transparency Act (FFATA) Subaward Reporting Requirement:

New awards issued under this funding opportunity announcement are subject to the reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282), as amended by section 6202 of Public Law 110–252 and implemented by 2 CFR Part 170.

Grant and cooperative agreement recipients must report information for each first-tier sub-award of \$25,000 or more in Federal funds and executive total compensation for the recipient's and subrecipient's five most highly compensated executives as outlined in Appendix A to 2 CFR Part 170, available online at www.fsrs.gov

3. Attachment B: By replacing in its entirety with the following revised version:

**ATTACHMENT B
PAYMENT PROVISIONS**

The maximum dollar amount payable under this agreement is not intended as any form of a guaranteed amount. The Subrecipient will be paid for services specified in Attachment A, or services actually performed, up to the maximum allowable amount specified within this agreement. State of Vermont payment terms are Net 00 days from date of invoice, payments against this contract will comply with the State's payment terms. The payment schedule for delivered products, or rates for services performed, and any additional reimbursements, are included in this attachment. The

following provision specifying payments are:

1. This subgrant is funded by federal grants and is subject to federal approval by the Centers for Medicare and Medicaid Innovation (CMMI). No reimbursement shall be provided under this agreement without federal approval for the task, service, or product for which reimbursement is claimed. The maximum amount payable under this contract for services and expenses shall not exceed \$1,406,833.09. Work performed between January 1, 2016 and the signing or execution of this amendment that is in conformity with Attachment A may be billed under this agreement.
 - a. Funding for this agreement was approved through December 31, 2014 in the amount of \$90,000.
 - b. In December 2014 federal approval was sought for the time period of January 1, 2015-December 31, 2015 in the amount of \$551,918 which was reduced to \$535,757.29 per December 2015 federal approval. Subrecipient began work for year two, beginning January 1, 2015 and ending December 31, 2015, with written authorization from the State of Vermont.
 - c. In December 2015 federal approval was sought and obtained for the time period of January 1, 2016 -June, 30, 2016 in the amount of \$447,686.00.
 - d. The State of Vermont will seek approval from CMMI for the period July-December 2016 for the amount of \$333,389.80. Subrecipient may not begin work for year three, beginning July 1, 2016 and ending December 31, 2016 without written authorization from the State of Vermont. Approval for funding is contingent on CMMI authorization.

2. **Compliance and Reporting Requirements.** As a responsible steward of federal funding, the State monitors its Subrecipients utilizing the following monitoring tools:
 - a. Ensure that Subrecipient is not disbarred/suspended or excluded for any reason
 - b. Sub-award agreement
 - c. Subrecipient meeting and regular contact with Subrecipients
 - d. Required pre-approval for changes to budget or scope of grant
 - e. Quarterly financial reports
 - f. Bi-annual programmatic reports
 - g. Audit
 - h. Desk Reviews
 - i. Site audits

In its use of these monitoring tools, the State emphasizes clear communication to ensure a feedback loop that supports Subrecipients in maintaining compliance with federal requirements. The State may at any time elect to conduct additional Subrecipient monitoring. Subrecipients therefore should maintain grant records accurately in the event that the State exercises this right. The State may also waive its right to perform certain Subrecipient monitoring activities. If, at any time, the State waives its right to certain Subrecipient monitoring activities, it will note which activities were not completed and the reasons why that activity was not necessary. Each of the monitoring tools and policies regarding their use are described in detail beginning on page 5 of the Vermont Health Care Innovation Project Grant Program Application. The parties agree that the Application will be incorporated by reference into this contract at the point this contract is signed.

3. Program Budget Table.

Program Budget Table	Budget
Finance / IT / Compliance / Communication	\$38,800
Director (Joyce Gallimore)	\$42,000

Project Coordinator (Kendall West)	\$22,491
Quality Manager (Patty Launer)	\$34,936
Project Manager (Heather Skeels)	\$37,284
Director, Health Care Informatics (Kate Simmons)	\$23,200
Temporary Data Extractor (TBH)	\$16,219
Communications Director (Sue Noon)	\$500
Project Manager (Melissa Miles)	\$7,993
Project Coordinator (Katie Fitzpatrick)	\$27,726
total salaries	\$251,149
total fringe @23%	\$57,764
total personnel	\$308,913
conference/travel	\$6,800
mileage	\$7,736
meetings	\$1,450
other IT (server, etc.)	\$14,636
supplies	\$10,875
contractor: compliance expertise	\$0
contractor: administrative support	\$4,392
contractor: telemonitoring (Pharos Innovations, LLC)	\$424,000
contractor: temporary agency (data extraction nurses)	\$33,081
contractor: triage care coordination (VNA of VT)	\$315,138
contractor: analytics	\$144,000
beneficiary engagement / mailings	\$5,000
support for data extraction FQHC T&E	\$0
legal services (compliance / contract expertise)	\$39,071
business insurance	\$11,845
facility	\$49,004
total direct	\$1,375,941
indirect 10% of personnel	\$30,891
TOTAL	\$1,406,833

4. **Invoices.** All requests for reimbursements shall be made using the Invoice – Contracts Agreements form attached, see Appendix I – Required Forms, or a similar format agreed upon by the State and Contractor. All payments are subject to payment terms of Net 00 days. The Subrecipient shall submit invoices to the State quarterly. The State shall reimburse the Subrecipient for Subcontractor costs up to the total maximum amount of this agreement.

The Subrecipient or shall submit each invoice along with the paid subrecipient invoice as supporting documentation for all reimbursed payments. The State shall reimburse the Subrecipient for Subcontractor costs up to the total maximum amount of this agreement.

Payments and/or reimbursement for travel, lodging, training/registration and other approved expenses shall only be issued after all supporting documentation and receipts are received and accepted by the State. Invoices with such expenses shall be accompanied by a Travel and Expense Form, see Appendix I:

Required Forms.

Invoices should reference this agreement number, contain a unique invoice number, and current date of submission. Invoices should be submitted electronically with all other reports to:

Leah Korce, Grants Management Specialist
Business Office, Contracting Unit
Department of Vermont Health Access
Leah.Korce@vermont.gov

4. **Attachment C: By replacing in its entirety with the following approved version dated 9/1/2015:**

**ATTACHMENT C: STANDARD STATE PROVISIONS
FOR CONTRACTS AND GRANTS**

1. **Entire Agreement:** This Agreement, whether in the form of a Contract, State Funded Grant, or Federally Funded Grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.
2. **Applicable Law:** This Agreement will be governed by the laws of the State of Vermont.
3. **Definitions:** For purposes of this Attachment, "Party" shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement.
4. **Appropriations:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, and in the event federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.
5. **No Employee Benefits For Party:** The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the state withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.
6. **Independence, Liability:** The Party will act in an independent capacity and not as officers or employees of the State.

The Party shall defend the State and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit.

After a final judgment or settlement the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party.

The Party shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party.

7. **Insurance:** Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the state through the term of the Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.

General Liability and Property Damage: With respect to all operations performed under the contract, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations
Products and Completed Operations
Personal Injury Liability
Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

\$1,000,000 Per Occurrence
\$1,000,000 General Aggregate
\$1,000,000 Products/Completed Operations Aggregate
\$ 50,000 Fire/ Legal/Liability

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than: \$1,000,000 combined single limit.

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Professional Liability: Before commencing work on this Agreement and throughout the term of this Agreement, the Party shall procure and maintain professional liability insurance for any and all services performed under this Agreement, with minimum coverage of **\$1,000,000** per occurrence, and **\$3,000,000** aggregate.

8. **Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all prior representations by the Party, including but not limited to bills, invoices, progress reports and other proofs of work.
9. **Requirement to Have a Single Audit:** In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, the Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or

more in federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

- 10. Records Available for Audit:** The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.
- 11. Fair Employment Practices and Americans with Disabilities Act:** Party agrees to comply with the requirement of Title 21V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement. Party further agrees to include this provision in all subcontracts.
- 12. Set Off:** The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.
- 13. Taxes Due to the State:**

 - a. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
 - b. Party certifies under the pains and penalties of perjury that, as of the date the Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
 - c. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
 - d. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.
- 14. Child Support:** (Applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date the Agreement is signed, he/she:

 - a. is not under any obligation to pay child support; or
 - b. is under such an obligation and is in good standing with respect to that obligation; or
 - c. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

15. **Sub-Agreements:** Party shall not assign, subcontract or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in all subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above.
16. **No Gifts or Gratuities:** Party shall not give title or possession of any thing of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.
17. **Copies:** All written reports prepared under this Agreement will be printed using both sides of the paper.
18. **Certification Regarding Debarment:** Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing/debarment>
19. **Certification Regarding Use of State Funds:** In the case that Party is an employer and this Agreement is a State Funded Grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.
20. **Internal Controls:** In the case that this Agreement is an award that is funded in whole or in part by Federal funds, in accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
21. **Mandatory Disclosures:** In the case that this Agreement is an award funded in whole or in part by Federal funds, in accordance with 2CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.
22. **Conflict of Interest:** Party must disclose in writing any potential conflict of interest in accordance with Uniform Guidance §200.112, Bulletin 5 Section X and Bulletin 3.5 Section IV.B.

AHS - State of Vermont – Attachment C - 9-1-2015_rev

5. **Attachment E:** By replacing in its entirety with the following approved version dated 5/5/2015:

**ATTACHMENT E
BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("Agreement") is entered into by and between the State of Vermont Agency of Human Services, operating by and through its Department of Vermont Health Access ("Covered Entity") and Bi-State Primary Care Association ("Business Associate") as of November 10, 2014 ("Effective Date"). This Agreement supplements and is made a part of the contract/grant to which it is attached.

Covered Entity and Business Associate enter into this Agreement to comply with standards promulgated under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), including the Standards for the Privacy of Individually Identifiable Health Information, at 45 CFR Parts 160 and 164 ("Privacy Rule"), and the Security Standards, at 45 CFR Parts 160 and 164 ("Security Rule"), as amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act (HITECH), and any associated federal rules and regulations.

The parties agree as follows:

1. Definitions. All capitalized terms used but not otherwise defined in this Agreement have the meanings set forth in 45 CFR Parts 160 and 164 as amended by HITECH and associated federal rules and regulations.

"Agent" means those person(s) who are agents(s) of the Business Associate, in accordance with the Federal common law of agency, as referenced in 45 CFR § 160.402(c).

"Breach" means the acquisition, access, use or disclosure of protected health information (PHI) which compromises the security or privacy of the PHI, except as excluded in the definition of Breach in 45 CFR § 164.402.

"Business Associate shall have the meaning given in 45 CFR § 160.103.

"Individual" includes a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

"Protected Health Information" or PHI shall have the meaning given in 45 CFR § 160.103, limited to the information created or received by Business Associate from or on behalf of Agency.

"Security Incident" means any known successful or unsuccessful attempt by an authorized or unauthorized individual to inappropriately use, disclose, modify, access, or destroy any information or interference with system operations in an information system.

"Services" includes all work performed by the Business Associate for or on behalf of Covered Entity that requires the use and/or disclosure of protected health information to perform a business associate function described in 45 CFR § 160.103 under the definition of Business Associate.

"Subcontractor" means a person or organization to whom a Business Associate delegates a function, activity or service, other than in the capacity of a member of the workforce of the Business Associate. For purposes of this Agreement, the term Subcontractor includes Subgrantees.

2. Identification and Disclosure of Privacy and Security Offices. Business Associate and Subcontractors shall provide, within ten (10) days of the execution of this agreement, written notice to the Covered Entity's contract/grant manager the names and contact information of both the HIPAA Privacy Officer and HIPAA Security Officer. This information must be updated any time either of these contacts changes.

3. Permitted and Required Uses/Disclosures of PHI.

3.1 Except as limited in this Agreement, Business Associate may use or disclose PHI to perform Services, as specified in the underlying grant or contract with Covered Entity. The uses and disclosures of Business Associate are limited to the minimum necessary, to complete the tasks or to provide the services associated with the terms of the underlying agreement. Business Associate shall not use or disclose PHI in any manner that would constitute a violation of the Privacy Rule if used or disclosed by Covered Entity in that manner. Business Associate may not use or disclose PHI other than as permitted or required by this Agreement or as Required by Law.

3.2 Business Associate may make PHI available to its employees who need access to perform Services provided that Business Associate makes such employees aware of the use and disclosure restrictions in this Agreement and binds them to comply with such restrictions. Business Associate may only disclose PHI for the purposes authorized by this Agreement: (a) to its agents and Subcontractors in accordance with Sections 9 and 17 or, (b) as otherwise permitted by Section 3.

3.3 Business Associate shall be directly liable under HIPAA for impermissible uses and disclosures of the PHI it handles on behalf of Covered Entity, and for impermissible uses and disclosures, by Business Associate's Subcontractor(s), of the PHI that Business Associate handles on behalf of Covered Entity and that it passes on to Subcontractors.

4. Business Activities. Business Associate may use PHI received in its capacity as a Business Associate to Covered Entity if necessary for Business Associate's proper management and administration or to carry out its legal responsibilities. Business Associate may disclose PHI received in its capacity as Business Associate to Covered Entity for Business Associate's proper management and administration or to carry out its legal responsibilities if a disclosure is Required by Law or if Business Associate obtains reasonable written assurances via a written agreement from the person to whom the information is to be disclosed that the PHI shall remain confidential and be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the Agreement requires the person or entity to notify Business Associate, within two (2) business days (who in turn will notify Covered Entity within two (2) business days after receiving notice of a Breach as specified in Section 6.1), in writing of any Breach of Unsecured PHI of which it is aware. Uses and disclosures of PHI for the purposes identified in Section 3 must be of the minimum amount of PHI necessary to accomplish such purposes.

5. Safeguards. Business Associate, its Agent(s) and Subcontractor(s) shall implement and use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for by this Agreement. With respect to any PHI that is maintained in or transmitted by electronic media, Business Associate or its Subcontractor(s) shall comply with 45 CFR sections 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards) and 164.316 (policies and procedures and documentation requirements). Business Associate or its Agent(s) and Subcontractor(s) shall identify in writing upon request from Covered Entity all of the safeguards that it uses to prevent impermissible uses or disclosures of PHI.

6. Documenting and Reporting Breaches.

6.1 Business Associate shall report to Covered Entity any Breach of Unsecured PHI, including Breaches reported to it by a Subcontractor, as soon as it (or any of its employees or agents) becomes aware of any such Breach, and in no case later than two (2) business days after it (or any of its employees or agents) becomes aware of the Breach, except when a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security.

6.2 Business Associate shall provide Covered Entity with the names of the individuals whose Unsecured PHI has been, or is reasonably believed to have been, the subject of the Breach and any other available information that is required to be given to the affected individuals, as set forth in 45 CFR § 164.404(c), and, if requested by

Covered Entity, information necessary for Covered Entity to investigate the impermissible use or disclosure. Business Associate shall continue to provide to Covered Entity information concerning the Breach as it becomes available to it. Business Associate shall require its Subcontractor(s) to agree to these same terms and conditions.

6.3 When Business Associate determines that an impermissible acquisition, use or disclosure of PHI by a member of its workforce is not a Breach, as that term is defined in 45 CFR § 164.402, and therefore does not necessitate notice to the impacted individual(s), it shall document its assessment of risk, conducted as set forth in 45 CFR § 402(2). When requested by Covered Entity, Business Associate shall make its risk assessments available to Covered Entity. It shall also provide Covered Entity with 1) the name of the person(s) making the assessment, 2) a brief summary of the facts, and 3) a brief statement of the reasons supporting the determination of low probability that the PHI had been compromised. When a breach is the responsibility of a member of its Subcontractor's workforce, Business Associate shall either 1) conduct its own risk assessment and draft a summary of the event and assessment or 2) require its Subcontractor to conduct the assessment and draft a summary of the event. In either case, Business Associate shall make these assessments and reports available to Covered Entity.

6.4 Business Associate shall require, by contract, a Subcontractor to report to Business Associate and Covered Entity any Breach of which the Subcontractor becomes aware, no later than two (2) business days after becomes aware of the Breach.

7. **Mitigation and Corrective Action.** Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to it of an impermissible use or disclosure of PHI, even if the impermissible use or disclosure does not constitute a Breach. Business Associate shall draft and carry out a plan of corrective action to address any incident of impermissible use or disclosure of PHI. If requested by Covered Entity, Business Associate shall make its mitigation and corrective action plans available to Covered Entity. Business Associate shall require a Subcontractor to agree to these same terms and conditions.

8. **Providing Notice of Breaches.**

8.1 If Covered Entity determines that an impermissible acquisition, access, use or disclosure of PHI for which one of Business Associate's employees or agents was responsible constitutes a Breach as defined in 45 CFR § 164.402, and if requested by Covered Entity, Business Associate shall provide notice to the individual(s) whose PHI has been the subject of the Breach. When requested to provide notice, Business Associate shall consult with Covered Entity about the timeliness, content and method of notice, and shall receive Covered Entity's approval concerning these elements. The cost of notice and related remedies shall be borne by Business Associate.

8.2 If Covered Entity or Business Associate determines that an impermissible acquisition, access, use or disclosure of PHI by a Subcontractor of Business Associate constitutes a Breach as defined in 45 CFR § 164.402, and if requested by Covered Entity or Business Associate, Subcontractor shall provide notice to the individual(s) whose PHI has been the subject of the Breach. When Covered Entity requests that Business Associate or its Subcontractor provide notice, Business Associate shall either 1) consult with Covered Entity about the specifics of the notice as set forth in section 8.1, above, or 2) require, by contract, its Subcontractor to consult with Covered Entity about the specifics of the notice as set forth in section 8.1

8.3 The notice to affected individuals shall be provided as soon as reasonably possible and in no case later than 60 calendar days after Business Associate reported the Breach to Covered Entity.

8.4 The notice to affected individuals shall be written in plain language and shall include, to the extent possible, 1) a brief description of what happened, 2) a description of the types of Unsecured PHI that were involved in the Breach, 3) any steps individuals can take to protect themselves from potential harm resulting from the Breach,

4) a brief description of what the Business Associate is doing to investigate the Breach, to mitigate harm to individuals and to protect against further Breaches, and 5) contact procedures for individuals to ask questions or obtain additional information, as set forth in 45 CFR § 164.404(c).

8.5 Business Associate shall notify individuals of Breaches as specified in 45 CFR § 164.404(d) (methods of individual notice). In addition, when a Breach involves more than 500 residents of Vermont, Business Associate shall, if requested by Covered Entity, notify prominent media outlets serving Vermont, following the requirements set forth in 45 CFR § 164.406.

9. Agreements with Subcontractors. Business Associate shall enter into a Business Associate Agreement with any Subcontractor to whom it provides PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity in which the Subcontractor agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such PHI. Business Associate must enter into this Business Associate Agreement before any use by or disclosure of PHI to such agent. The written agreement must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of the agreement concerning the use or disclosure of PHI. Business Associate shall provide a copy of the Business Associate Agreement it enters into with a subcontractor to Covered Entity upon request. Business associate may not make any disclosure of PHI to any Subcontractor without prior written consent of Covered Entity.

10. Access to PHI. Business Associate shall provide access to PHI in a Designated Record Set to Covered Entity or as directed by Covered Entity to an Individual to meet the requirements under 45 CFR § 164.524. Business Associate shall provide such access in the time and manner reasonably designated by Covered Entity. Within three (3) business days, Business Associate shall forward to Covered Entity for handling any request for access to PHI that Business Associate directly receives from an Individual.

11. Amendment of PHI. Business Associate shall make any amendments to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR § 164.526, whether at the request of Covered Entity or an Individual. Business Associate shall make such amendments in the time and manner reasonably designated by Covered Entity. Within three (3) business days, Business Associate shall forward to Covered Entity for handling any request for amendment to PHI that Business Associate directly receives from an Individual.

12. Accounting of Disclosures. Business Associate shall document disclosures of PHI and all information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. Business Associate shall provide such information to Covered Entity or as directed by Covered Entity to an Individual, to permit Covered Entity to respond to an accounting request. Business Associate shall provide such information in the time and manner reasonably designated by Covered Entity. Within three (3) business days, Business Associate shall forward to Covered Entity for handling any accounting request that Business Associate directly receives from an Individual.

13. Books and Records. Subject to the attorney-client and other applicable legal privileges, Business Associate shall make its internal practices, books, and records (including policies and procedures and PHI) relating to the use and disclosure of PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity available to the Secretary in the time and manner designated by the Secretary. Business Associate shall make the same information available to Covered Entity, upon Covered Entity's request, in the time and manner reasonably designated by Covered Entity so that Covered Entity may determine whether Business Associate is in compliance with this Agreement.

14. Termination.

14.1 This Agreement commences on the Effective Date and shall remain in effect until terminated by Covered

Entity or until all of the PHI provided by Covered Entity to Business Associate or created or received by Business Associate on behalf of Covered Entity is destroyed or returned to Covered Entity subject to Section 18.8.

14.2 If Business Associate breaches any material term of this Agreement, Covered Entity may either: (a) provide an opportunity for Business Associate to cure the breach and Covered Entity may terminate the contract or grant without liability or penalty if Business Associate does not cure the breach within the time specified by Covered Entity; or (b) immediately terminate the contract or grant without liability or penalty if Covered Entity believes that cure is not reasonably possible; or (c) if neither termination nor cure are feasible, Covered Entity shall report the breach to the Secretary. Covered Entity has the right to seek to cure any breach by Business Associate and this right, regardless of whether Covered Entity cures such breach, does not lessen any right or remedy available to Covered Entity at law, in equity, or under the contract or grant, nor does it lessen Business Associate's responsibility for such breach or its duty to cure such breach

15. Return/Destruction of PHI.

15.1 Business Associate in connection with the expiration or termination of the contract or grant shall return or destroy, at the discretion of the Covered Entity, all PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity pursuant to this contract or grant that Business Associate still maintains in any form or medium (including electronic) within thirty (30) days after such expiration or termination. Business Associate shall not retain any copies of the PHI. Business Associate shall certify in writing for Covered Entity (1) when all PHI has been returned or destroyed and (2) that Business Associate does not continue to maintain any PHI. Business Associate is to provide this certification during this thirty (30) day period.

15.2 Business Associate shall provide to Covered Entity notification of any conditions that Business Associate believes make the return or destruction of PHI infeasible. If Covered Entity agrees that return or destruction is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible for so long as Business Associate maintains such PHI. This shall also apply to all Agents and Subcontractors of Business Associate.

16. Penalties and Training. Business Associate understands that: (a) there may be civil or criminal penalties for misuse or misappropriation of PHI and (b) violations of this Agreement may result in notification by Covered Entity to law enforcement officials and regulatory, accreditation, and licensure organizations. If requested by Covered Entity, Business Associate shall participate in training regarding the use, confidentiality, and security of PHI.

17. Security Rule Obligations. The following provisions of this section apply to the extent that Business Associate creates, receives, maintains or transmits Electronic PHI on behalf of Covered Entity.

17.1 Business Associate shall implement and use administrative, physical, and technical safeguards in compliance with 45 CFR sections 164.308, 164.310, and 164.312 with respect to the Electronic PHI that it creates, receives, maintains or transmits on behalf of Covered Entity. Business Associate shall identify in writing upon request from Covered Entity all of the safeguards that it uses to protect such Electronic PHI.

17.2 Business Associate shall ensure that any Agent and Subcontractor to whom it provides Electronic PHI agrees in a written agreement to implement and use administrative, physical, and technical safeguards that reasonably and appropriately protect the Confidentiality, Integrity and Availability of the Electronic PHI. Business Associate must enter into this written agreement before any use or disclosure of Electronic PHI by such Agent or Subcontractor. The written agreement must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of the agreement concerning the use or disclosure of

Electronic PHI. Business Associate shall provide a copy of the written agreement to Covered Entity upon request. Business Associate may not make any disclosure of Electronic PHI to any Agent or Subcontractor without the prior written consent of Covered Entity.

17.3 Business Associate shall report in writing to Covered Entity any Security Incident pertaining to such Electronic PHI (whether involving Business Associate or an Agent or Subcontractor). Business Associate shall provide this written report as soon as it becomes aware of any such Security Incident, and in no case later than two (2) business days after it becomes aware of the incident. Business Associate shall provide Covered Entity with the information necessary for Covered Entity to investigate any such Security Incident.

17.4 Business Associate shall comply with any reasonable policies and procedures Covered Entity implements to obtain compliance under the Security Rule.

18. Miscellaneous.

18.1 In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the contract/grant, the terms of this Agreement shall govern with respect to its subject matter. Otherwise, the terms of the contract/grant continue in effect.

18.2 Business Associate shall cooperate with Covered Entity to amend this Agreement from time to time as is necessary for Covered Entity to comply with the Privacy Rule, the Security Rule, or any other standards promulgated under HIPAA.

18.3 Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule, Security Rule, or any other standards promulgated under HIPAA.

18.4 In addition to applicable Vermont law, the parties shall rely on applicable federal law (e.g., HIPAA, the Privacy Rule and Security Rule, and the HIPAA omnibus final rule) in construing the meaning and effect of this Agreement.

18.5 As between Business Associate and Covered Entity, Covered Entity owns all PHI provided by Covered Entity to Business Associate or created or received by Business Associate on behalf of Covered Entity.

18.6 Business Associate shall abide by the terms and conditions of this Agreement with respect to all PHI it receives from Covered Entity or creates or receives on behalf of Covered Entity even if some of that information relates to specific services for which Business Associate may not be a "Business Associate" of Covered Entity under the Privacy Rule.

18.7 Business Associate is prohibited from directly or indirectly receiving any remuneration in exchange for an individual's PHI. Business Associate will refrain from marketing activities that would violate HIPAA, including specifically Section 13406 of the HITECH Act. Reports or data containing the PHI may not be sold without Agency's or the affected individual's written consent.

18.8 The provisions of this Agreement that by their terms encompass continuing rights or responsibilities shall survive the expiration or termination of this Agreement. For example: (a) the provisions of this Agreement shall continue to apply if Covered Entity determines that it would be infeasible for Business Associate to return or destroy PHI as provided in Section 14.2 and (b) the obligation of Business Associate to provide an accounting of disclosures as set forth in Section 11 survives the expiration or termination of this Agreement with respect to accounting requests, if any, made after such expiration or termination.

Rev: 5/5/15

6. Appendix I: By replacing in its entirety with the following revised version:

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Appendix I – REQUIRED FORMS
Invoice –Grant Agreements

Grantee:	
Address:	
State:	
Zip Code:	

Invoice #:	
Date:	
Contract #:	

Grantee Billing Contact: _____ Phone #: _____

Signature: _____

Date (if applicable)	Description of Deliverables/Work Performed	Amount
TOTAL:		

Remittance Address:

Bill to:
 Business Office
 Department of Vermont Health Access
 289 Hurricane Lane
 Williston, VT 05495

Appendix I – REQUIRED FORMS
Department of Vermont Health Access
Request for Approval to Subcontract

Date of Request: _____

Original Grantee Name:	_____	Grantee #:	_____
Address:	_____		
Phone Number:	_____		
Contact Person:	_____		
Agreement #:	_____	Signature:	_____

Subcontractor Name: _____
Address: _____
Phone Number: _____
Contact Person: _____
Scope of Subcontracted Services: _____

Is any portion of the work being outsourced outside of the United States? **YES** **NO**
(Note to Business Office: If Yes, do not proceed further with approval until reviewed with Finance & Mgmt)

Dollar Amount of Subcontracted Services: \$ _____
Date Range for Subcontracted Services: Start: _____ End: _____

DVHA Program Manager:	_____	Signature:	_____
Phone Number:	_____		

Business Office Review

Comments: _____

Approval: _____ Title: _____ Date: _____

Required: Contractor cannot subcontract until they receive this signed approval from the State of Vermont.

Language to be included from State of Vermont Bulletin 3.5 in all subcontracting agreements:

Fair Employment Practices and Americans with Disabilities Act: Party agrees to comply with the requirement of Title 21V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement. Party further agrees to include this provision in all subcontracts.

Set Off: The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

Taxes Due to the State:

- a. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
- b. Party certifies under the pains and penalties of perjury that, as of the date the Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- c. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
- d. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

Child Support: (Applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date the Agreement is signed, he/she:

- a. is not under any obligation to pay child support; or
- b. is under such an obligation and is in good standing with respect to that obligation; or
- c. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

Sub-Agreements: Party shall not assign, subcontract or subgrant the performance of his Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above.

Notwithstanding the foregoing, the State agrees that the Party may assign this agreement, including all of the Party's rights and obligations hereunder, to any successor in interest to the Party arising out of the sale of or reorganization of the Party.

This amendment consists of 28 pages. Except as modified by this amendment and any previous amendments, all provisions of this grant #03410-1456-15 dated November 10, 2014 shall remain unchanged and in full force and effect.

By the STATE OF VERMONT

By the SUBRECIPIENT

Steven Costantino, Commissioner Date
Department of Vermont Health Access
(DVHA) 312 Hurricane Lane, Suite 201
Williston, VT 05495-2087
Phone: 802-879-5901
Email: steven.costantino@vermont.gov

Lori Real, Executive VP/COO Date
Bi-State Primary Care Association
525 Clinton Street
Bow, NH 03304
Phone: 603-228-2830
Email: lreal@bistatepca.org