

- Parties:** This is a Grant Agreement for services between the State of Vermont, Department of Vermont Health Access (hereafter called "State") and Vermont Program for Quality in Health Care with a principal place of business at 132 Main Street, Suite 1, Montpelier, VT (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.
- Subject Matter:** The subject matter of this Grant Agreement is to improve the quality of surgical care in Vermont and reduce complications from surgery. Detailed services to be provided by the Subrecipient are described in Attachment A.
- Maximum Amount:** In consideration of services to be performed by the Subrecipient, the State agrees to pay the Subrecipient, per payment provisions specified in Attachment B, a sum not to exceed \$900,000.
- Grant Term:** The effective date of this Grant Agreement shall be **January 26, 2015** and end on **November 30, 2016**.

5. **Source of Funds:** Federal \$900,000 State \$ Other \$

6. **Federal Funds Information:**

CFDA Title: State Innovation Models
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

- 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.
- 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.

9. **Contact Persons for this Award:**

	<u>For the State</u>	<u>For the Subrecipient</u>
Name:	Georgia Maheras	Catherine Fulton
Phone #:	802-505-5137	802-229-2449
E-mail:	Georgia.maheras@state.vt.us	catherinef@vpqhc.org

10. **Fiscal Year:** Subrecipient's fiscal year starts on July 1 and ends on June 30.

11. **Attachments:** This grant consists of 25 pages including the following attachments which are incorporated herein:

Attachment A – Scope of Work to be Performed
Attachment B – Payment Provisions
Attachment C – Customary State Contract and Grant Provisions

- Attachment E – Business Associate Agreement
- Attachment F – AHS Customary Grant Provisions
- Appendix I – Required Forms

Order of precedence of these documents shall be as follows:

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

WE, THE UNDERSIGNED PARTIES, AGREE TO BE BOUND BY THIS GRANT.

BY THE STATE OF VERMONT:

BY THE SUBRECIPIENT:

Mark Larson, Commissioner
312 Hurricane Lane, Suite 201
Williston, VT 05495-2087
Phone: 802-879-5901
Email: mark.larson@state.vt.us

Date

Catherine Fulton, Executive Director
132 Main Street
Montpelier, VT 05601
Phone: 802-229-2449
Email: catherinef@vpqhc.org

Date

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 Grant is a sub-award as a part of the VHCIP Grant Program, which solicited proposals in the fall of 2014.

Quality assessment and improvement has long been a cornerstone of surgical practice and is central to the professional identity of surgeons. Historically, efforts to benchmark the quality of surgical care in Vermont were limited by low-quality administrative data. The American College of Surgeons National Surgical Quality Improvement Program (ACS-NSQIP) clinical database is structured with manually abstracted clinical data providing the technical structure, reporting capabilities, and benchmarking output to reliably identify areas in need of improvement within current systems.

This project will develop infrastructure for the implementation of a clinical management system designed to improve quality and reduce costs of surgical care across the State of Vermont. As part of the Vermont Statewide Surgical Collaborative, the Subrecipient will work toward a statewide infrastructure to support the collection, submission and reporting of surgical clinical data via the ACS-NSQIP clinical database in an effort to improve surgical outcomes, enhance patient safety, and reduce costs.

II. Scope of Work

A. Subrecipient Shall:

1. Hire a Statewide Surgical Collaborative Project Coordinator (SSCPC) to assist hospitals in recruiting and hiring Surgical Care Reviewers (SCRs).
 - a. The SSCPC will be able to provide both technical and clinical advice and support to the hospital-based SCRs.
 - b. The SSCPC will provide short term chart abstraction services in the event of an unanticipated absence of any participating hospital's designated SCR.
 - c. The SSCPC will make periodic site visits to the hospitals to provide strong implementation support to the SCRs and Surgical Champions (SC) at their worksites.
2. Assist hospitals with mentoring SCRs in compliance with the ACS-NSQIP program FTE requirements based on each of the twelve (12) hospitals' assessed needs. Each SCR will:
 - a. Complete required 160 hour ACS-NSQIP training and take the certification exam in order to submit data into the database.
 - b. Collect clinical data on variables, including preoperative risk factors, intraoperative variables and 30-day postoperative mortality and morbidity outcomes for patients undergoing surgical procedures as defined by ACS-NSQIP data collection specifications.
 - c. Validate and submit the data to the ACS-NSQIP database through a secure, web-based system.
 - d. Conduct data audits as indicated by ACS-NSQIP technical specifications.
 - e. Meet regularly with the SCs and quality team to review results.

3. Work with hospitals to establish and engage a SC at each participating hospital, as required by ACS-NSQIP.
4. Provide on-going education for surgeons, surgical services staff, administration, as to role and function of SCR in hospital organization; Provide support for NSQIP integration into organization's quality improvement plan.
5. Collaborate with SCs and SCRs to troubleshoot and identify best practices opportunities.
6. Program Status Reporting:
 - a. 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:
 - i. 2015: April 10 (to include the month of December, 2014), July 10, October 10
 - ii. 2016: January 10, April 10, July 10, October 10, December 10 (for the months of October and November, 2016)
 - iii. Final Report Due: December 10, 2016
 - b. Programmatic reports shall be submitted to:

Joelle Judge
VHCIP Project Management Office
Agency of Administration
joelle.judge@partner.state.vt.us
(o) 802-828-1979
7. Prepare and present programmatic reports to the VHCIP work groups, Steering Committee or Core Team as requested.
8. Adhere to the following work plan and timeline on page 5 of this agreement.

Project Scope and Purpose: (Overall Goal)	To collect and submit surgical clinical data to the ACS- NSQIP database for the purpose of improving surgical outcomes and performance through data analysis and comparative performance monitoring				
Project Objectives:	Objective Statement	Implementation Activities (see Task tab for additional detail)	Responsible Staff	Start Date	Target Completion Date
1. Phase 1 - Program Introduction	Initiate Vermont's Statewide Surgical Services Collaborative activities under the VHCIP Award program	Hire SSCPC for VPQHC to coordinate grant administration and project activities Outreach/education for hospital partners Create MOU for hospital partners participation in the Statewide Collaborative	VPQHC SSCPC (TBD)	December 1, 2014	April 15, 2015
2. Phase 2 - ACS-NSQIP Enrollment Process	Complete enrollment checklist activities upon payment of enrollment fees for participating hospitals	Surgical volumes and FTEs calculators; program enrollment option; SCR hiring, training, certification; submit completed application to ACS-NSQIP; complete Participation Agreement; submit participation fee; begin IT file creation & testing	Hospital participants with SSCPC support	March 1, 2015	May 20, 2015
3. Program Implementation	Begin data collection cycles with all Vermont Surgical Services Collaborative members	Complete data collection cycles for identified volumes as directed by the NSQIP program Provide on-going technical support, education and implementation assistance	Hospital Surgical Case Reviewers (SCRs) Implementation support from the SSCPC	May 1, 2015	Ongoing
4. Phase 4 - Analysis and Best Practice Dissemination	Utilize ACS-NSQIP comparative performance reports and continuing collaborative analyses to support improvement activities	Utilize comparative reports to identify best practice and opportunities for improvement; provide continuing support and assistance to access performance data and information; broadly disseminate best practice solutions	VPQHC SSCPC ALL Collaborative members	June 1, 2016	Ongoing

SubGrantee Requirements: 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:

Jessica Mendizabal
 Business Office
 Department of Vermont Health Access (DVHA)
jessica.mendizabal@state.vt.us
 (o) 802-878-7958

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.

Subrecipient Requirements

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>.

Health and Human Services (HHS) Grant Policy Statement (GPS) - Subawards (pg. II-78):

The recipient is accountable to the Operating Division (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 Principal Investigator/Principal Director 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.fsrc.gov).

**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.

This amount will be paid in the following manner:

1. **Invoices.** The Subrecipient shall invoice the State monthly for actual expenses incurred or services performed, up to the maximum amount of \$900,000 per the budget table in section 6. All requests for reimbursement shall be submitted according to the invoicing templates provided by the State (invoice and worksheet will be provided electronically separate from this agreement upon execution).
2. The Subrecipient shall maintain copies of all receipts with each invoice as supporting documentation for all reimbursed payments. Mileage expense for use of personal vehicles and meal expense will be reimbursed at the current State rate. Travel expenses must be in compliance with State of Vermont Administrative Bulletin 3.4.
3. Services performed between December 1, 2014, and the start of this agreement that are in conformity with Attachment A can be billed under this agreement.
4. Invoices should reference this grant number, contain a unique invoice number and current date of submission. Invoices should be submitted electronically with all other reports to:

Jessica Mendizabal, Contract Administrator
Business Office, Contracting Unit
Department of Vermont Health Access
jessica.mendizabal@state.vt.us

5. 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.

6. Program Budget:

Variances of the subtotal budget items shall not exceed 10% without prior approval from the State. Written requests for such approvals must first be submitted by the Subrecipient prior to the expenditure of funds in excess of the above budgeted line items.

Program Element		Year 1 12/1/2014 to 11/30/2015		Year 2 12/1/2015 to 11/30/2016		VHCIP Grand Total	
Program Element	FTE			Program Element	FTE		
Statewide SC Project Coordinator	1.00	\$ 64,167		Statewide SC Project Coordinator	1	\$ 72,100	\$ 136,267
Surgical Care Reviewers	12.00	\$ 275,000		Surgical Care Reviewers	12		\$ 275,000
Sr. Program Mgr./Epidemiologist	0.15	\$ 9,548		Sr. Program Mgr./Epidemiologist	0.15	\$ 13,113	\$ 22,661
Executive Director	0.05	\$ 4,177		Executive Director	0.05	\$ 5,737	\$ 9,914
Administrative Assistant	0.15	\$ 4,475		Administrative Assistant	0.15	\$ 6,147	\$ 10,622
Business Office	0.10	\$ 4,752		Business Office	0.1	\$ 6,526	\$ 11,278
IT Manager	0.05	\$ 2,104		IT Manager	0.05	\$ 2,889	\$ 4,993
IT Support in Hospital in 12 hospita	0.05	\$ -		IT Support in Hospital in 12 hospitals	0.05	\$ -	\$ -
12 Surgical Champions	0.05	\$ -		12 Surgical Champions	0.05	\$ -	\$ -
							\$ -
Total Salaries		\$ 364,223		Total Salaries		\$ 106,512	\$ 470,735
<u>Fringe@ 30%</u>		\$ 109,267		<u>Fringe@ 32%(contribution to pension plan for Coc</u>		\$ 34,084	\$ 143,351
Salaries and Fringe Total		\$ 473,490		Salaries and Fringe Total		\$ 140,596	\$ 614,086
Program Costs							
Training fee for Coordinator		\$ 2,500		Training fee for Coordinator			2,500
Travel to hospitals by Coordinator - Avg. 4				Travel to hospitals by Coordinator - Avg.4.5			0
Trips per month @. \$575 per mile		\$ 5,000		Trips per month @. \$575 per mile		\$ 6,559	11,559
Computer Equipment -12 computers for SCRs		\$ 12,000		Computer Equipment -12 computers for SCRs			12,000
Vermont Statewide Collaborative Meetings		\$ 1,300		Vermont Statewide Collaborative Meetings		\$ 1,300	2,600
Hospital Enrollment fees –annual		\$ 180,000		Hospital Enrollment fees –annual			180,000
						\$ -	0
Total Program Costs		\$ 200,800		Total Program Costs		\$ 7,859	208,659
Salaries and Fringe & Program Costs Total		\$ 674,290		Salaries and Fringe & Program Costs Total		\$ 148,455	822,745
9.39 % Indirect Costs		\$ 63,316		9.39 % Indirect Costs		\$ 13,940	77,256
Total Costs		\$ 737,606		Total Costs		\$ 162,395	\$ 900,000

* The total budget request for year one of funding for the NSQIP enrollment fee for hospitals is \$180,000 which is comprised of fees at the Community Hospital Rate (\$22,000 and includes Central Vermont Medical Center, Rutland Regional Medical Center, Brattleboro Memorial Hospital, Northwestern Medical Center and Southwest Vermont Medical Center (5 @ \$22,000 = \$110,000)) and the Small and Rural Hospital Rate (\$10,000, which includes Copley Hospital, Porter Medical Center, Gifford Medical Center, Mt. Ascutney Hospital and Health Center, North Country Hospital, Northeastern Vermont Regional Hospital and Springfield Hospital (Grace Cottage not included)(7 @ \$10,000 = \$70,000)).

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 **\$2,000,000** per occurrence, and **\$2,000,000** 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 21 V.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.

**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 **Vermont Program for Quality in Health Care** (“Business Associate”) as of **January 1, 2015** (“Effective Date”). This Agreement supplements and is made a part of the Contract to which it is an attachment.

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 18.7.
- 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: 9/21/13)

ATTACHMENT F
AGENCY OF HUMAN SERVICES' CUSTOMARY GRANT PROVISIONS

1. **Agency of Human Services – Field Services Directors** will share oversight with the department (or field office) that is a party to the grant for provider performance using outcomes, processes, terms and conditions agreed to under this grant.
2. **2-1-1 Data Base**: The Grantee providing a health or human services within Vermont, or near the border that is readily accessible to residents of Vermont, will provide relevant descriptive information regarding its agency, programs and/or contact and will adhere to the "Inclusion/Exclusion" policy of Vermont's United Way/Vermont 211. If included, the Grantee will provide accurate and up to date information to their data base as needed. The "Inclusion/Exclusion" policy can be found at www.vermont211.org

3. **Medicaid Program Grantees**:

Inspection of Records: Any grants accessing payments for services through the Global Commitment to Health Waiver and Vermont Medicaid program must fulfill state and federal legal requirements to enable the Agency of Human Services (AHS), the United States Department of Health and Human Services (DHHS) and the Government Accounting Office (GAO) to:

Evaluate through inspection or other means the quality, appropriateness, and timeliness of services performed; and

Inspect and audit any financial records of such Grantee or subgrantee.

Subcontracting for Medicaid Services: Having a subcontract does not terminate the Grantee, receiving funds under Vermont's Medicaid program, from its responsibility to ensure that all activities under this agreement are carried out. Subcontracts must specify the activities and reporting responsibilities of the Grantee or subgrantee and provide for revoking delegation or imposing other sanctions if the Grantee or subgrantee's performance is inadequate. The Grantee agrees to make available upon request to the Agency of Human Services; the Department of Vermont Health Access; the Department of Disabilities, Aging and Independent Living; and the Center for Medicare and Medicaid Services (CMS) all grants and subgrants between the Grantee and service providers.

Medicaid Notification of Termination Requirements: Any Grantee accessing payments for services under the Global Commitment to Health Waiver and Medicaid programs who terminates their practice will follow the Department of Vermont Health Access, Managed Care Organization enrollee notification requirements.

Encounter Data: Any Grantee accessing payments for services through the Global Commitment to Health Waiver and Vermont Medicaid programs must provide encounter data to the Agency of Human Services and/or its departments and ensure that it can be linked to enrollee eligibility files maintained by the State.

Federal Medicaid System Security Requirements Compliance: All Grantees and subcontractors must provide a security plan, risk assessment, and security controls review document within three months of the start date of this agreement (and update it annually thereafter) to support audit compliance with 45CFR95.621 subpart F, *ADP (Automated Data Processing) System Security Requirements and Review Process*.

4. **Non-discrimination Based on National Origin as evidenced by Limited English Proficiency**. The Grantee agrees to comply with the non-discrimination requirements of Title VI of the Civil Rights Act of 1964, 42 USC Section 2000d, et seq., and with the federal guidelines promulgated pursuant to Executive Order 13166 of 2000, which require that Grantees and subgrantees receiving federal funds must assure

that persons with limited English proficiency can meaningfully access services. To the extent the Grantee provides assistance to individuals with limited English proficiency through the use of oral or written translation or interpretive services in compliance with this requirement, such individuals cannot be required to pay for such services.

5. **Voter Registration.** When designated by the Secretary of State, the Grantee agrees to become a voter registration agency as defined by 17 V.S.A. §2103 (41), and to comply with the requirements of state and federal law pertaining to such agencies.
6. **Drug Free Workplace Act.** The Grantee will assure a drug-free workplace in accordance with 45 CFR Part 76.
7. **Privacy and Security Standards.**

Protected Health Information: The Grantee shall maintain the privacy and security of all individually identifiable health information acquired by or provided to it as a part of the performance of this grant. The Grantee shall follow federal and state law relating to privacy and security of individually identifiable health information as applicable, including the Health Insurance Portability and Accountability Act (HIPAA) and its federal regulations.

Substance Abuse Treatment Information: The confidentiality of any alcohol and drug abuse treatment information acquired by or provided to the Grantee or subgrantee shall be maintained in compliance with any applicable state or federal laws or regulations and specifically set out in 42 CFR Part 2.

Other Confidential Consumer Information: The Grantee agrees to comply with the requirements of AHS Rule No. 08-048 concerning access to information. The Grantee agrees to comply with any applicable Vermont State Statute, including but not limited to 12 VSA §1612 and any applicable Board of Health confidentiality regulations. The Grantee shall ensure that all of its employees and subgrantees performing services under this agreement understand the sensitive nature of the information that they may have access to and sign an affirmation of understanding regarding the information's confidential and non-public nature.

Social Security numbers: The Grantee agrees to comply with all applicable Vermont State Statutes to assure protection and security of personal information, including protection from identity theft as outlined in Title 9, Vermont Statutes Annotated, Ch. 62.

8. **Abuse Registry.** The Grantee agrees not to employ any individual, use any volunteer, or otherwise provide reimbursement to any individual in the performance of services connected with this agreement, who provides care, custody, treatment, transportation, or supervision to children or vulnerable adults if there is a substantiation of abuse or neglect or exploitation against that individual. The Grantee will check the Adult Abuse Registry in the Department of Disabilities, Aging and Independent Living. Unless the Grantee holds a valid child care license or registration from the Division of Child Development, Department for Children and Families, the Grantee shall also check the central Child Protection Registry. (See 33 V.S.A. §4919(a)(3) & 33 V.S.A. §6911(c)(3)).
9. **Reporting of Abuse, Neglect, or Exploitation.** Consistent with provisions of 33 V.S.A. §4913(a) and §6903, any agent or employee of a Grantee who, in the performance of services connected with this agreement, has contact with clients or is a caregiver and who has reasonable cause to believe that a child or vulnerable adult has been abused or neglected as defined in Chapter 49 or abused, neglected, or exploited as defined in Chapter 69 of Title 33 V.S.A. shall make a report involving children to the Commissioner of the Department for Children and Families within 24 hours or a report involving vulnerable adults to the Division of Licensing and Protection at the Department of Disabilities, Aging, and Independent Living within 48 hours. This requirement applies except in those instances where particular roles and functions are exempt from reporting under state and federal law. Reports involving

children shall contain the information required by 33 V.S.A. §4914. Reports involving vulnerable adults shall contain the information required by 33 V.S.A. §6904. The Grantee will ensure that its agents or employees receive training on the reporting of abuse or neglect to children and abuse, neglect or exploitation of vulnerable adults.

10. **Intellectual Property/Work Product Ownership.** All data, technical information, materials first gathered, originated, developed, prepared, or obtained as a condition of this agreement and used in the performance of this agreement - including, but not limited to all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and printouts, notes and memoranda, written procedures and documents, which are prepared for or obtained specifically for this agreement - or are a result of the services required under this grant - shall be considered "work for hire" and remain the property of the State of Vermont, regardless of the state of completion - unless otherwise specified in this agreement. Such items shall be delivered to the State of Vermont upon 30 days notice by the State. With respect to software computer programs and / or source codes first developed for the State, all the work shall be considered "work for hire," i.e., the State, not the Grantee or subgrantee, shall have full and complete ownership of all software computer programs, documentation and/or source codes developed.

The Grantee shall not sell or copyright a work product or item produced under this agreement without explicit permission from the State.

If the Grantee is operating a system or application on behalf of the State of Vermont, then the Grantee shall not make information entered into the system or application available for uses by any other party than the State of Vermont, without prior authorization by the State. Nothing herein shall entitle the State to pre-existing Grantee's materials.

11. **Security and Data Transfers.** The State shall work with the Grantee to ensure compliance with all applicable State and Agency of Human Services' policies and standards, especially those related to privacy and security. The State will advise the Grantee of any new policies, procedures, or protocols developed during the term of this agreement as they are issued and will work with the Grantee to implement any required.

The Grantee will ensure the physical and data security associated with computer equipment - including desktops, notebooks, and other portable devices - used in connection with this agreement. The Grantee will also assure that any media or mechanism used to store or transfer data to or from the State includes industry standard security mechanisms such as continually up-to-date malware protection and encryption. The Grantee will make every reasonable effort to ensure media or data files transferred to the State are virus and spyware free. At the conclusion of this agreement and after successful delivery of the data to the State, the Grantee shall securely delete data (including archival backups) from the Grantee's equipment that contains individually identifiable records, in accordance with standards adopted by the Agency of Human Services.

12. **Computing and Communication:** The Grantee shall select, in consultation with the Agency of Human Services' Information Technology unit, one of the approved methods for secure access to the State's systems and data, if required. Approved methods are based on the type of work performed by the Grantee as part of this agreement. Options include, but are not limited to:

1. Grantee's provision of certified computing equipment, peripherals and mobile devices, on a separate Grantee's network with separate internet access. The Agency of Human Services' accounts may or may not be provided.
2. State supplied and managed equipment and accounts to access state applications and data, including State issued active directory accounts and application specific accounts, which follow the National

Institutes of Standards and Technology (NIST) security and the Health Insurance Portability & Accountability Act (HIPAA) standards.

The State will not supply e-mail accounts to the Grantee.

13. **Lobbying.** No federal funds under this agreement may be used to influence or attempt to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, continuation, renewal, amendments other than federal appropriated funds.
14. **Non-discrimination.** The Grantee will prohibit discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under Title IX of the Education Amendments of 1972, or on the basis of race, color or national origin under Title VI of the Civil Rights Act of 1964. No person shall on the grounds of sex (including, in the case of a woman, on the grounds that the woman is pregnant) or on the grounds of religion, be excluded from participation in, be denied the benefits of, or be subjected to discrimination, to include sexual harassment, under any program or activity supported by state and/or federal funds.

The grantee will also not refuse, withhold from or deny to any person the benefit of services, facilities, goods, privileges, advantages, or benefits of public accommodation on the basis of disability, race, creed, color, national origin, marital status, sex, sexual orientation or gender identity under Title 9 V.S.A. Chapter 139.

15. **Environmental Tobacco Smoke.** Public Law 103-227, also known as the Pro-children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, child care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds.

The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where Women, Infants, & Children (WIC) coupons are redeemed.

Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

Grantees are prohibited from promoting the use of tobacco products for all clients. Facilities supported by state and federal funds are prohibited from making tobacco products available to minors.

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: _____