

1. **Parties.** This is a contract for personal services between the State of Vermont, Department of Vermont Health Access (hereafter called "State"), and University of Vermont and State Agricultural College, with a principal place of business in Burlington, Vermont (hereafter called "Contractor"). The Contractor's form of business organization is a Non-profit Corporation. The Contractor's local address is 85 South Prospect St, 340 Waterman Building Burlington, VT 05405. It is the Contractor's responsibility to contact the Vermont Department of Taxes to determine if, by law, the Contractor is required to have a Vermont Department of Taxes Business Account Number.
2. **Subject Matter.** The subject matter of this contract is personal services generally on the subject of defining programs and Medicaid clinical management. Detailed services to be provided by the Contractor are described in Attachment A.
3. **Maximum Amount.** In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$225,342.00.
4. **Contract Term.** The period of Contractor's performance shall begin on July 1, 2015 and end on December 31, 2015.

Work performed between July 1, 2015 (retroactive date) and the signing or execution of this agreement that is in conformity with Attachment A may be billed under this agreement. Contractor agrees that in exchange for the consideration of the option to bill for services performed, all terms and conditions described in this agreement shall apply to any and all services performed for or on behalf of the State. Contractor agrees that by submitting invoices, bills, or otherwise seeking compensation for services performed prior to the finalization of this agreement or signing of this agreement, contractor is agreeing to the application of all terms of this contract to that period and to that work. Contractor further agrees to defend, indemnify, and hold the State harmless for any claim, dispute, non-contractual cost or charge, or any liability whatsoever, whether in law, equity, or otherwise, which arises from or is connected to the work performed prior to the execution of this agreement. Contractor further agrees that these terms apply regardless of whether the work is accepted by the State, and regardless of whether payment is issued by the State to the Contractor for the work in question.

5. **Prior Approvals.** If approval by the Attorney General's Office or the Secretary of Administration is required, (under current law, bulletins, and interpretations), neither this contract nor any amendment to it is binding until it has been approved by either or both such persons.

Approval by the Attorney General's Office is required.

Approval by the Secretary of Administration is required.

6. **Amendment.** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.
7. **Cancellation.** This contract may be cancelled by either party by giving 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 Contractor, wherein services authorized under this contract are provided, is not in compliance with State and Federal law or is operating with deficiencies the State may terminate this contract immediately and notify the Contractor accordingly. Also, in the event that federal funds supporting this contract become unavailable or are reduced, the State may cancel this

contract with no obligation to pay the Contractor from State revenues.

8. **Attachments.** This contract consists of 37 pages including the following attachments, which are incorporated herein:

- Attachment A - Specifications of Work to be Performed
- Attachment B - Payment Provisions
- Attachment C - Customary State Contract provisions
- Attachment D - Modifications of Insurance
- Attachment E - Business Associate Agreement
- Attachment F - Customary Contract Provisions of the Agency of Human Services

The order of precedence of documents shall be as follows:

- 1). This document
- 2). Attachment D
- 3). Attachment C
- 4). Attachment A
- 5). Attachment B
- 6). Attachment E
- 7). Attachment F
- 8). Other Attachments (if any)

**WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT.**

**BY THE STATE OF VERMONT:**

**BY THE CONTRACTOR:**

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STEVEN COSTANTINO, COMMISSIONER      DATE  
312 Hurricane Lane, Suite 201  
Williston, VT 05495-2087  
Phone: 802-879-5901  
Email: [Steven.Costantino@vermont.gov](mailto:Steven.Costantino@vermont.gov)

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JENNIFER GAGNON, ASSOCIATE VICE PRESIDENT      DATE  
FOR RESEARCH ADMINISTRATION  
217 Waterman Building  
65 South Prospect Street  
Burlington, VT 05404-0160  
Phone: 802-656-3360  
Email: [Jennifer.Gagnon@uvm.edu](mailto:Jennifer.Gagnon@uvm.edu)

## ATTACHMENT A SPECIFICATIONS OF WORK TO BE PERFORMED

### I. CONTRACTOR DUTIES

#### A. Contract Liaison

The Contractor will assign one liaison for the State to contact to ensure the assignment of necessary personnel and resources, and to coordinate and manage the activities related to the implementation and management of this contract.

#### B. State Chief Medical Officer and State Medicaid Medical Director

##### 1. Responsibilities

Contractor will recruit, hire, and employ two qualified physicians subject to the approval of the Department of Vermont Health Access (DVHA): one to serve as State's Chief Medical Officer (CMO) and the other to serve as State's Medicaid Medical Director. Responsibilities for each position are outlined in the Project #1 description.

#### C. Consultation and Technical Assistance

Consultation and Technical Assistance provided under this section will be defined in terms of individual projects. The Contractor will provide qualified personnel matched to the specific requirements of each approved project.

##### 1. Ongoing Projects

In addition to Project #1 governing CMO and Medicaid Medical Director services the State has identified and will continue Project #2, as follows:

Use of State pharmacy claims data to evaluate the Vermont Academic Detailing (VTAD) Program, with the goal of determining the impact of the VTAD Program on local prescribing practices. This project is described under Project #2 below.

##### 2. Project Deliverables

Acceptance of the deliverables/products by the State shall represent the Contractor's fulfillment of the project assignment. The State will have sixty days to acknowledge the final deliverables/products or to reject them. Rejection of the final deliverable regarding research projects will not be based on the failure to achieve particular results.

##### 3. Work Product Ownership and Data Use

Notwithstanding the provisions in Attachment F, paragraphs 10 and 12, the parties agree to discuss in the context of each project assignment the ownership and use of the data, research, and other material (to be referred to as "data") collected or produced in connection with the Contract. Before the approval of a consultation or technical assistance project, the parties will agree on how the Contractor will use or disclose the data and whether the Contractor will be permitted to retain the data for use at a later date or for other purposes. The parties acknowledge the principles of academic freedom, the Contractor's general obligation to publish the results of its research, and the need to adhere to state and federal laws and maintain the confidentiality of individually identifiable information.

## II. STATE DUTIES

The State retains responsibility for maintaining and managing the records of State and for responding to public records requests pertaining to such records.

The State will provide work space and administrative support to the Chief Medical Officer (CMO) and the Medicaid Medical Director at its facilities at 312 Hurricane Lane, Williston, Vermont, or any location in which the State's operations may move to during the contract period. In addition, the State will supply all computing and telecommunications equipment, along with supplies such as manuals, books, subscriptions, etc., to be used by the CMO and Medicaid Medical Director in fulfilling Contractor's responsibilities to the State; this equipment must be returned to the State at the conclusion of the contract or termination of the CMO or Medicaid Medical Director positions. This equipment will only be provided to the CMO and Medicaid Medical Director when they are on-site at State facilities, with the exception of mobile devices such as cell phones, which may be issued at the discretion of the DVHA Commissioner.

The State will employ other State staff who will assist the CMO and Medicaid Medical Director in the performance of their duties.

## III. OTHER

### A. Removal of Personnel from Contract

The Commissioner of DVHA, along with the Secretary of the Agency of Human Services (AHS) shall have authority to request the immediate removal from the contract of any personnel for cause or non-cause, including, but not limited to: negligent or willful misconduct that is injurious to beneficiaries; conviction of a felony, or any material breach of any part of this contract, or in the case of a physician, the revocation, restriction, or suspension of the physician's license to practice medicine in Vermont or in any other jurisdiction in which the physician is so licensed for any period of time. Upon removal of a person for cause, and with respect to that person, the State shall have no further payment obligation to the Contractor. The State shall reimburse the Contractor for actual services rendered and any pre-approved, non-refundable expenses incurred prior to the removal of said personnel.

If the State is dissatisfied with the performance of consultation and technical assistance personnel working under this agreement, it may take reasonable steps in consultation with Contractor to notify the personnel of its concerns and work with that employee to correct the problem. If the State remains dissatisfied, the State and Contractor will work together to arrange for a reassignment. Contractor retains the exclusive right to discipline or terminate Contractor employment in accordance with their policies.

### B. Employment Clauses

Contractor shall not include any clause in its agreements with the Contractor personnel that would prevent such personnel from accepting employment with the State, or entering into a contractual arrangement with the State or a contractor of the State following the employee's termination of his or her relationship with the Contractor or termination of this agreement.

### C. Location of Personnel

Staff supporting the State may be at times asked to work in AHS administrative offices depending on the nature and requirements of the work. At a minimum, staff must be available for meetings in AHS office locations.

### D. Security and Electronic Data

Regarding the Contractor's Consultation and Technical Assistance activities, as described in Section I. C., for work using State-provided PHI with identifiers, the Contractor will adhere to the National Institute of Standards and Technology (NIST) Special Publication 800-53 rev 3 or higher moderate

baseline security controls, ([http://csrc.nist.gov/publications/nistpubs/800-53-Rev3/sp800-53-rev3-final\\_updated-errata\\_05-01-2010.pdf](http://csrc.nist.gov/publications/nistpubs/800-53-Rev3/sp800-53-rev3-final_updated-errata_05-01-2010.pdf) with the exception of CA-6 Security Authorization). Due to the extremely sensitive nature of the data, the Contractor will develop data security standard operating procedures to be reviewed annually with all staff and faculty engaged in this work.

**E. Actions against Contractor Personnel**

The Secretary of AHS and the Commissioner of DVHA shall be immediately notified if any personnel working under this contract have a license revoked, suspended or restricted by any state; or the provider loses board certification or eligibility status.

**F. Institutional Review Board Approval**

Research may include designs for which informed consent must be obtained by participants. Any such proposal must be approved by the Commissioner of DVHA, if applicable, by Contractor's institutional review board, and, if applicable, by the Agency of Human Services' institutional review board.

**G. Conflict of Interest**

Contractor agrees that to the extent the physicians hired by Contractor to serve as the Chief Medical Officer and the Medicaid Medical Director engage separately in the practice of medicine, including the provision of physician services covered under the Medicaid program, Contractor will be responsible for assuring that no actual or apparent conflicts of interest exist between the discharge of their responsibilities under this contract and their private activities. In the case of any Medicaid prior or concurrent approvals, or any utilization reviews or appeal, involving services or pharmaceuticals provided or prescribed by either of them, Contractor will ensure that other qualified and trained physicians are available to assume their responsibilities in connection with such approvals or appeals.

**H. Request for Approval to Subcontract**

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

Business Office  
Department of Vermont Health Access  
Attn: Susan Whitney  
312 Hurricane Lane  
Williston, VT 05495  
[Susan.Whitney@Vermont.gov](mailto:Susan.Whitney@Vermont.gov)

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

**IV. POINT OF CONTACT**

State of Vermont State Agency of Human Services  
Steven Costantino, Commissioner

Department of Vermont Health Access  
312 Hurricane Lane, Suite 201  
Williston, VT 05495  
Phone: 802-879-5901  
Authorized Representative of the State

State of Vermont  
Aaron French, Project and Operations Director  
Department of Vermont Health Access  
312 Hurricane Lane, Suite 201  
Williston, VT 05495  
Phone: 802-879-5905  
Authorized Representative of the State

CMO/MMD Supervisor  
Richard "Mort" C. Wasserman, MD, MPH  
Professor, Department of Pediatrics  
Vermont Child Health Improvement Program  
University of Vermont  
1 South Prospect St.  
Burlington, VT 05401  
Phone: 802-656-3046

Contractor's Administrative Lead  
Julie Macy  
Research Administrator  
Sponsored Project Administration  
217 Waterman Building  
85 South Prospect Street  
University of Vermont  
Burlington, Vermont 05405-0160  
Phone: 802-656-3360  
Fax: 802-656-8604

Liaison  
Melissa Bailey, MA/LCMHC  
Department of Pediatrics,  
Director of Policy and State Relations  
Vermont Child Health Improvement Program  
University of Vermont  
College of Medicine  
UHC Campus, St Joseph's 7  
South Prospect St  
Burlington, VT 05401  
Phone: 802-656-8320

**V. 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	CONTRACTOR/GRANTEE
Name	Office of General Counsel	Jennifer Gagnon, Associate Vice President for Research Administration
Address	312 Hurricane Lane, Suite 201 Williston, VT 05495	217 Waterman Building 65 S. Prospect St Burlington, VT 05404
Email	<a href="mailto:Howard.Pallotta@vermont.gov">Howard.Pallotta@vermont.gov</a>	<a href="mailto:Jennifer.Gagnon@uvm.edu">Jennifer.Gagnon@uvm.edu</a>

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 CONTRACT**

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

**PROJECT #1  
State Chief Medical Officer and State Medicaid Medical Director**

**1. Description**

The Contractor will recruit, hire, and employ two qualified physicians subject to the approval of the State, one to serve as the State’s Chief Medical Officer (hereinafter and at times referred to as “CMO”) and the other to serve as the State’s Medicaid Medical Director. The CMO position will be staffed between 0.75 and 1.0 FTE. The Medicaid Medical Director (hereinafter and at times referred to as “MMD”) will be staffed as 1.0 FTE. The budget for this position covers July 1, 2015 through October 31, 2015. The definition of 1.0 FTE is a minimum of 40 hours per week. The definition of .75 FTE is 30 hours per 40 hour week. The State Authorized Representative has the final authority to determine the FTE limits within the annual budget. Responsibilities for each position are outlined below in “Section 2, Responsibilities”.

**2. Responsibilities**

**The Chief Medical Officer shall:**

- a. Participate in policy review and development, planning, and implementation, including the development of methods to achieve ongoing improvement in managed care operations and programs.
- b. In the absence of the Medicaid Medical Director or during periods for which additional medical director expertise is needed, support the pre-admission, concurrent review and retrospective review processes, commonly referred to as utilization review. Specifically, render a professional opinion regarding medical necessity using evidence-based literature when available, accepted local standards, and/or Contractor’s expert medical opinion. The CMO shall draw upon other Contractor internal resources and

expertise to render a professional opinion regarding medical necessity in areas for which the CMO determines additional expertise is needed.

- c. Consult with and advise managed care staff and operations across the Agency of Human Services to achieve ongoing improvement in the integration of behavioral and physical health.
- d. With support from the State and/or other AHS staff, assist with identifying cost-effective alternatives to traditional Medicaid care and cost containment approaches.
- e. Provide medical expertise in critical areas of managed care operations, including but not limited to assisting State to identify and develop best practices in prevention, treatment of multiple co-morbid conditions, and chronic care management.
- f. In collaboration with the Deputy Commissioner of Health Services and Managed Care, serve as a State medical liaison with other departments of the AHS and their medical directors.
- g. Provide clinical leadership in developing an integrated system of care that includes managed care operations, as well as community providers throughout the State.
- h. Advise State staff in identifying and developing clinical initiatives.
- i. In collaboration with the Deputy Commissioner of Health Services and Managed Care, assure coordination of clinical activities at State in a manner that is consistent with applicable state and federal laws, licensing requirements, and accreditation standards.
- j. Participate in State or AHS committees such as utilization review, quality improvement, pharmacy and therapeutics review, and/or joint research projects, as requested.
- k. Identify areas of research in public sector healthcare programs and participate as needed and agreed upon by both parties.
- l. Assure timely completion of all necessary Medicaid documentation as required by state and federal standards.
- m. Organize and direct the Clinical Utilization Review Board (CURB).
- n. Assist the Medicaid Medical Director as requested.

**The Medicaid Medical Director shall:**

- a. Be directly supervised by the Chief Medical Officer and the Deputy Commissioner for Health Services and Managed Care and participate as requested by the CMO or State in policy development, planning, and implementation, including development of methods to achieve ongoing improvement in managed care operations and programs.
- b. Collaborate with the CMO and State staff to identify areas of opportunity and/or concern in the clinical programs.
- c. Support the pre-admission, concurrent review and retrospective review processes, commonly referred to as utilization review. Specifically, render a professional opinion regarding medical necessity using evidence-based literature when available, accepted local standards, and/or Contractor's expert medical opinion. The MMD shall draw upon other Contractor internal resources and expertise to render a professional opinion regarding medical necessity in areas for which the Medicaid Medical Director determines additional expertise is needed.
- d. Request/seek additional clinical information necessary from the treating and/or referring provider in order to complete reviews in a timely manner.
- e. Assure completion of medical necessity reviews in accordance with all applicable state and federal laws.

- f. When evidence-based national criteria for medical necessity are unavailable, research, recommend and/or review any clinical criteria that have been developed by State. If necessary, seek out subject matter experts for consultation.
- g. Assist the Chief Medical Officer as requested.

**Both the Chief Medical Officer and the Medicaid Medical Director shall:**

- a. Uphold State values and standards of conduct, including:
  - i. Demonstrating integrity, respect, and responsiveness when working with patients, families, community partners, and internal staff.
  - ii. Communicating a positive image about State to the public.
- b. Assure completion of medical necessity reviews in accordance with all applicable State and federal laws.
- c. Participate in and support fair hearings, grievances, appeals and other administrative or judicial matters relative to State's clinical operations.
- d. Provide legislative testimony or supporting materials as requested by the Commissioner or State.
- e. Represent the State at various national and regional conferences and meetings as authorized by the Commissioner's Office.

**3. Conditions of Employment**

- a. The Medicaid Medical Director will serve full-time, which is defined under this agreement as a minimum of 40 hours per 40 hour work week, unless otherwise approved by the State. The budget for this position covers July 1, 2015 through October 31, 2015.
- b. The CMO position shall be staffed between .75 FTE and 1.0 FTE. The definition of 1.0 FTE under this agreement is a minimum of 40 hours per work week. The definition of .75 FTE under this agreement is a minimum of 30 hours per 40 hour work week.
- c. When serving as the CMO and Medicaid Medical Director, those persons will work on behalf of and under the direction and supervision of State. The CMO and Medicaid Medical Director will arrange their work schedules, vacation days, and paid and unpaid holidays to coordinate with the daily business hours and calendar of State.
- d. Except in the case of unforeseeable emergencies, the CMO and Medicaid Medical Director will arrange their work schedules, vacation days, and paid and unpaid holidays to ensure at least one of these positions is present to provide State with medical leadership for all clinical activities within the State including prior authorizations, grievance and appeals reviews, care management and other activities as required by Medicaid or assigned by the Commissioner of DVHA or Designee.
- e. The Medicaid Medical Director will be directly supervised by the CMO and Deputy Commissioner of Health Services and Managed Care.
- f. For the services of the CMO and MMD, State will pay the costs set forth in Attachment B.
- g. The Contractor will obtain State's agreement before CMO or Medicaid Medical Director incumbents are replaced by any other individuals.
- h. The CMO and Medicaid Medical Director will each be considered full-time employees of the Contractor for purposes of salaries, benefits, and all economic terms and conditions of employment, unless otherwise approved by the State. They shall remain on the Contractor's payroll and be entitled to

participate in the salary and benefit programs of the Contractor that pertain to retirement, health insurance, dental insurance, disability insurance, and tuition remission.

- i. The CMO and Medicaid Medical Director will receive all compensation from the Contractor and will receive no additional compensation from State.
- j. The Contractor will pay all salary and benefits to the CMO and to the Medicaid Medical Director and all related expenses to third parties, including payroll related taxes and FICA. The Contractor will withhold income and other payroll taxes and deductions as appropriate.
- k. The CMO and Medicaid Medical Director each will be jointly appointed as members of the faculty in one University of Vermont College of Medicine (COM). They will coordinate and seek collaboration within the COM and with other Contractor entities, as appropriate. The Contractor's Principal Investigator (PI), or designee, will conduct performance evaluations in accordance with the Contractor's policies or as otherwise agreed by State. DVHA's Commissioner or Deputy Commissioner will participate in the evaluation process, including providing input to the "Overall Expectations" section of the Contractor's form for reappointment, meeting with the CMO and Medicaid Medical Director, and consulting with the PI (or designee). The DVHA Commissioner or Deputy Commissioner will advise the PI (or designee) of any deficiencies in performance and related corrective actions to be taken as a result of the CMO or Medicaid Medical Director's service at the State.
- l. If State is dissatisfied with the performance of the CMO or Medicaid Medical Director, it may take reasonable steps in consultation with the Contractor to notify the CMO or Medicaid Medical Director of its concerns and work with that employee to correct the problem. If State remains dissatisfied, State and the Contractor will work together to arrange for the recruitment and appointment of a replacement acceptable to State, with all agreed upon expenses to be borne by State. The Contractor retains the exclusive right to discipline or terminate the Contractor's employment of the CMO or Medicaid Medical Director in accordance with the Contractor's policies.
- m. State will advise the CMO and Medicaid Medical Director of all its organizational rules, regulations, policies, standards of conduct, and safety procedures and the CMO and Medicaid Medical Director will conform accordingly, with respect both to their own performance and to any responsibilities they may have at State.
- n. Each physician furnished by the Contractor must:
  - i. Hold an unrestricted license to practice medicine in the State of Vermont, or hold an unrestricted license to practice medicine in another state and actively pursue an unrestricted license in Vermont through the Vermont Medical Practice Board;
  - ii. Be selected by the Contractor and approved by the Commissioner of DVHA and the Secretary of the Agency of Human Services; and,
  - iii. Serve in a full-time capacity as defined for University faculty with full-time appointments, unless otherwise approved by the State.
- o. The Commissioner of DVHA shall be entitled to interview all final candidates and, with the Secretary of the Agency of Human Services, shall have the ultimate decision whether to accept, reject, or retain any candidate.

#### **4. Gaps in Service Delivery**

Either party will notify the other if a gap in Chief Medical Officer or Medicaid Medical Director services is anticipated or occurs.

The Contractor will meet with the State in a timely manner to determine the type and extent of CMO or Medicaid Medical Director services that the Contractor shall provide during the anticipated or actual absence. The obligation to notify and meet with the State will be triggered by either the CMO's or the Medicaid Medical Director's resignation or by the CMO's or Medicaid Medical Director's absence of more than three consecutive weeks.

## **5. Medical Records**

The CMO and the MMD must:

Maintain and update clinical documentation consistent with the State's records policies and procedures and relevant state and federal law, including Medicaid requirements as well as the documentation standards in place at State; Maintain records related to the clinical program only in the State office; and, Prepare any compliance reports or take any other action necessary to comply with HIPAA and its implementing regulations.

## **6. State and Federal Programs**

The CMO and Medicaid Medical Director shall cooperate with the State's efforts to comply with applicable State and federal program requirements related to medical care (e.g., Medicaid and Medicare). If the CMO or Medicaid Medical Director has questions regarding the applicability of a State or federal program requirement, the CMO or Medicaid Medical Director shall inform the State of the question and the State and the Contractor, at the State's direction, will pursue resolution as necessary with the appropriate agency.

## **7. Additional Responsibilities**

CMO and Medicaid Medical Director responsibilities include consultation and technical assistance for concurrent and retrospective reviews, commonly referred to as utilization reviews, for inpatient mental health services and detoxification services. These services will be performed at no additional cost to the State.

Contractor will provide qualified personnel to compare requests for medical services with established criteria deemed appropriate for such services, review specific cases for consistency with established criteria, and render a professional opinion to the State regarding appropriateness of requested services. Contractor will provide the State with a recommendation regarding appropriateness of requested services within one (1) business day of receiving all required information. The State is responsible for all final decisions.

Contractor also will provide consultation and technical assistance for care management activities for patients receiving psychiatric and/or substance abuse treatment as part of the "CMO and Medicaid Medical Director's regular responsibilities.

## Project #2

### 1. Description

Contractor will use the State's Department of Vermont Health Access (DVHA) pharmacy claims data to evaluate the Vermont Academic Detailing (VTAD) Program. Report findings will also be provided to the Deputy Commissioner of DVHA on a mutually agreeable schedule, but not less than quarterly.

The goal of the evaluation project is to determine the impact of the VTAD Program on local prescribing practices. The evaluation will compare observed prescribing to what may be considered ideal prescribing both before and after the AD intervention and also between prescribers who have and have not received the intervention.

### 2. Responsibilities

The Contractor shall evaluate the State's pharmacy claims information that has been submitted to the State, and that DVHA or its pharmacy benefits manager has de-identified with respect to individually identifying patient information. This data will include the following elements:

- a. Contractor shall store the de-identified data on a secure server at the University of Vermont Medical Center, Inc./University of Vermont. The analyses performed by the Contractor will occur at the Office of Primary Care, the Contractor's School of Medicine, using STATA 10 (Stata Corporation, College Station, TX).
- b. The results of Contractor's evaluation of the VTAD Program will be shared with the State in a written summary and submitted to the Deputy Commissioner for Health Services and Managed Care on an annual basis.
- c. Contractor shall analyze the de-identified data to evaluate the impact of the VTAD Program on local prescribing behavior. Specifically, Contractor will help assess whether the VTAD is helping Medicaid patients by improving the use of evidence-based prescribing approaches. A copy of the written summary will be provided to the Deputy Commissioner of DVHA as generated.
- d. The results of the evaluation may be published in a peer-reviewed medical journal and in the Vermont Academic Detailing Program's Annual Report.
- e. The data will not be used for any purposes other than those described above.
- f. The information will be retained for a period of no more than two months unless Contractor and State agree to other evaluation projects permitted by law.

This project is a no-cost project. The State is not required to reimburse Contractor or any team members for the activity they undertake in connection with this project.

## ATTACHMENT B PAYMENT PROVISIONS

The maximum dollar amount payable under this agreement is not intended as any form of a guaranteed amount. The Contractor will be paid for products or services actually performed as specified in Attachment A up to the maximum allowable amount specified in this agreement. State of Vermont payment terms are Net 30 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 provisions specifying payments are:

### **I. Principal Investigator**

Dr. Richard Wasserman will be Principal Investigator (PI) for all projects and activities approved under this Contract. The PI will provide oversight, technical assistance, and consultation and will ensure project integrity and project completion on time and within budget. Costs for PI responsibilities will not exceed \$5,618.00 during the six (6) month period covered by this Contract, and will be paid quarterly based upon actual expenses.

### **II. Project #1: Chief Medical Officer, Medicaid Medical Director, and Principal Investigator**

Costs for the State Chief Medical Officer (CMO), State Medicaid Medical Director, Principal Investigator and support staff will not exceed \$225,342.00 for the contract period. Costs will include salary, fringe, operating (including expenses, and in-state and out-of-state travel), and indirect costs. Out-of-state travel expenses for the CMO and Medicaid Medical Director must be approved in advance of the travel by the Commissioner of DVHA or Designee: all travel expenses must comply with Article III, paragraphs 9-13 of this attachment.

The State will pay the Contractor a maximum of \$136,445.00 for the first quarter and a maximum of \$88,897.00 for the second quarter for the services provided in Attachment A, Section I and Projects #1 and #2 descriptions during SFY16. Payment by the State is contingent upon receipt and approval of a statement of the services provided by the CMO and Medicaid Medical Director in the previous quarter or receipt and approval of the document as outlined in the Prorated Scenario or Gap in Service Scenario in the previous quarter(s). The State Authorized Representative reserves the right to adjust funding between the CMO and Medicaid Medical Director salaries dependent upon the available staffing of both positions, not to exceed the maximum budgeted amount for the CMO/MMD per each state fiscal year as reflected in the budget table below.

Work performed between July 1, 2015 (retroactive date) and the start of this agreement that is in conformity with Attachment A may be billed under this agreement. Contractor agrees that in exchange for the consideration of the option to bill for services performed, all terms and conditions described in this agreement shall apply to any and all services performed for or on behalf of the State. Contractor agrees that by submitting invoices, bills, or otherwise seeking compensation for services performed prior to the finalization of this agreement or signing of this agreement, contractor is agreeing to the application of all terms of this contract to that period and to that work. Contractor further agrees to defend, indemnify, and hold the State harmless for any claim, dispute, non-contractual cost or charge, or any liability whatsoever, whether in law, equity, or otherwise, which arises from or is connected to the work performed prior to the execution of this agreement. Contractor further agrees that these terms apply regardless of whether the work is accepted by the State, and regardless of whether payment is issued by the State to the Contractor for the work in question.

#### Proration Scenario

This quarterly payment will be prorated for the quarter in which the CMO or Medicaid Medical Director begins working for the State, if the CMO or Medicaid Medical Director begins after the beginning of the quarter. In the instance of a quarter in which a prorated payment is necessary, the percent of effort during the period shall be documented by the Contractor and submitted to the State to be included with the quarterly invoice.

#### Gap in Service Scenario

In the event of a gap in service from either the CMO or Medicaid Medical Director, the Contractor may bill the State for agreed upon reasonable effort and expenses related to recruitment and employment of the new CMO or Medicaid Medical Director. Any effort and expenses attributed to recruitment and employment of these two positions shall be documented by the Contractor and submitted to the State to be included with the quarterly invoice. The State will review and approve the recruitment and employment expense(s) in accordance with State of Vermont Administrative Bulletin 3.4.

#### State and Federal Regulations

The CMO and Medicaid Medical Director will assure completion of medical necessity reviews in accordance with all applicable State and federal regulations regarding Medicaid clinical reviews. The CMO and Medicaid Medical Director will work at the direction of the State to complete medical necessity reviews within a timeframe that enables the State to adhere to all applicable State and federal laws as reflected in the following Code of Federal Regulations (CFR):

42 CFR §438.210 (d) titled "Timeframe for Decisions", and 42 CFR §438.408 (b) titled "Specific Timeframes".

These can be found online from the Electronic Code of Federal Regulations website at:

<http://ecfr.gpoaccess.gov>

Or the direct internet link to Title 42:

[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=7ef067068fd5790636ada6d541f3976e&c=ecfr&tpl=/ecfrbrowse/Title42/42cfrv4\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=7ef067068fd5790636ada6d541f3976e&c=ecfr&tpl=/ecfrbrowse/Title42/42cfrv4_02.tpl)

The deadlines associated with State regulations concerning Medicaid clinical reviews mirror the deadlines found in Federal regulations. For reference, they can be found at:

<http://humanservices.vermont.gov/on-line-rules/dvha/medicaid-covered-services-7100-7700-1/view>

If the State is unable to adhere to the requirements of state and federal laws due to a delay in the completion of medical necessity reviews by the CMO or Medicaid Medical Director, the Contractor will forfeit \$2,000 for the first such delay, and \$5,000 for each instance of all subsequent delays (not \$5,000 aggregate.) Such assessment shall not be made to the extent that the failure, in the State's judgment, reasonably results from:

- Unforeseeable catastrophic events experienced at the Contractor local and corporate facilities,
- Unforeseeable catastrophic events experienced by State which have a material effect on the Contractor, or;
- Complying with any directions of the State or its employees regarding changes to the scope of work.

#### Calculating CMO Salary at Less Than 1.0 FTE

Reimbursement for the CMO will be based on the full-time equivalency (FTE) of the CMO. The budget for this agreement assumes a 1.00 FTE for this position. In the event a CMO is hired to be available at less than 1.0 FTE, the Contractor shall bill at a rate based upon the following formula: the CMO's full time annual salary x the percent Full Time Equivalency. 1.0 FTE is defined as a minimum of 40 hours per 40 hour work week.

For example, if the CMO's annual salary is \$160,000.00 and their FTE is 0.85, the Contractor will base their invoices on an annual salary of \$136,000.

### III. Invoicing and Expense Reimbursement

1. The State will make payments to the Contractor upon receipt and approval of signed invoices to the State in accordance with the budget line items specified in the budget.
2. In all cases, should the parties agree to terminate the Contract, in whole or in part, prior to its completion, the State shall reimburse the Contractor for all approved unreimbursed expenses and non-cancellable encumbrances reasonably or necessarily made prior to the effective date of termination, such reimbursement, in combination with prior payments, not to exceed the total specified for the Contract or project. Conversely, Contractor shall refund any amount paid by State in excess of all expenses and non-cancellable encumbrances reasonably or necessarily made prior to the effective date of termination. In the event of early termination, Contractor shall provide State with copies of work in progress under the agreement. Upon notice of termination contractor will stop all work unless otherwise directed by the Commissioner of DVHA.
3. No benefits or insurance will be reimbursed by the State.
4. All invoices shall be submitted quarterly. The State will not pay an invoice(s) if not received within six months of the delivery of services or contract completion.
5. The Contractor will submit a signed and dated bill/invoice for services rendered under this agreement Section I (Project #1: Chief Medical Officer and Medicaid Medical Director). The invoices shall be printed on the Contractor's official letterhead, reference this contract number, include an accurate date of invoice and invoice number, the amount billed for each deliverable, include a breakdown of the days and hours worked by each staff member reported, and the total amount billed. The invoice must be signed by an authorized representative of the Contractor, and sent via email to [susan.whitney@vermont.gov](mailto:susan.whitney@vermont.gov) or by regular mail at:

Business Office  
Department of Vermont Health Access  
Attn: Susan Whitney  
312 Hurricane Lane, Suite 201  
Williston, VT 05495

6. The Contractor shall be reimbursed based on actual expenses incurred and accepted by the State.
7. All payments to the Contractor shall be based upon the State's acceptance of the deliverables outlined in Attachment A.
8. The State reserves the right to withhold all or part of the contract funds if the State does not receive timely documentation of the successful completion of deliverables as outlined in Attachment A. Any

work product deemed unacceptable by the State will be subject to revision by the Contractor based upon a remediation plan that the State and the Contractor agree upon.

9. The estimated travel budget is set at a maximum of \$3,500.00 for the entire contract term. The State will be billed the actual documented cost of each trip. Reasonable expenses for State approved travel will be reimbursed on an as-incurred basis at the current University of Vermont's policy which allows actual expenses up to \$60.00 per day. The Contractor will not be reimbursed for other expenses, including supplies, benefits, or insurance.

Updated rate information may be found at:  
<http://www.uvm.edu/policies/travel/travel.pdf>

10. This agreement requires that you attain prior approval for all travel. Only travel deemed applicable to Medicaid as determined by the Commissioner or Designee will be considered. Contractor is responsible for obtaining pre-authorization for travel and coordinating all travel arrangements. At least one month prior to the anticipated date of travel; the Contractor must submit the *Request for Approval to Travel Form* (Appendix I – Required Forms) in order to seek approval from the State for any travel paid for under this agreement. Upon receipt of the Request for Approval to Travel Form, the State shall review and respond. Under no circumstance shall the Contractor travel without prior authorization from the State. The Contractor shall submit the Request for Approval to Travel Form to the Contracts or Grants Administrator referenced in this agreement.
11. This agreement allows for the following “Other” travel related items. These items must be itemized on the Travel Mileage and Expense Form with invoices attached.
  - a. Reasonable hotel accommodations
  - b. Airfare
  - c. Most cost effective mode of ground transportation
12. This agreement requires that the Contractor submit to the Contract Administrator a copy of the Contractors Travel Policies no later than 30 days after the contract execution.
13. Payments and/or reimbursement for meals, lodging, airfare, training/registration and other 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* (Appendix I: Required Forms).

The State will remit all payments to:

Sudha Ramaswami, Director  
Sponsored Project Administration  
340 Waterman Building  
University of Vermont  
Burlington, VT 05405



**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 **\$1,000,000.00** per occurrence, and **\$3,000,000.00** 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 IX and Bulletin 3.5 Section IV.B.

(End of Standard Provisions)

AHS -State of Vermont – Attachment C\_3-1-2015\_rev

**ATTACHMENT D  
MODIFICATION OF CUSTOMARY PROVISIONS  
OF  
ATTACHMENT C OR ATTACHMENT F**

**1. Requirements of other Sections in Attachment E are hereby modified:**

**By deleting in Attachment E, number 2, and replacing with the following number 2:**

2. Identification and Disclosure of Privacy and Security Contacts. Within ten days of the execution of this agreement, Business Associate shall provide, to the Covered Entity's contract/grant manager, written notice of the names and contact information of those individuals to be contacted for any purposes related to privacy or security. This information must be updated any time it changes.

**2. Reasons for Modifications:**

The Contractor is not a covered entity under HIPPA and because they do not have a "HIPPA Privacy Officer" or "HIPPA Security Officer", the language should be revised to reflect that the contract manager will be responsible for notifying the State of any breaches.

**APPROVAL:**

\_\_\_\_\_  
ASSISTANT ATTORNEY GENERAL

DATE: \_\_\_\_\_

*State of Vermont – Attachment D  
Revised AHS – 12-08-09*

## 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 **University of Vermont Medical Center, Inc.** (“Business Associate”) as of July 1, 2015 (“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)

**ATTACHMENT F**  
**AGENCY OF HUMAN SERVICES' CUSTOMARY CONTRACT PROVISIONS**

1. **Agency of Human Services – Field Services Directors** will share oversight with the department (or field office) that is a party to the contract for provider performance using outcomes, processes, terms and conditions agreed to under this contract.
2. **2-1-1 Data Base:** The Contractor 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 Contractor 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](http://www.vermont211.org)

3. **Medicaid Program Contractors:**

Inspection of Records: Any contracts 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 Contractor or subcontractor.

Subcontracting for Medicaid Services: Having a subcontract does not terminate the Contractor, 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 Contractor or subcontractor and provide for revoking delegation or imposing other sanctions if the Contractor or subcontractor's performance is inadequate. The Contractor 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 contracts and subcontracts between the Contractor and service providers.

Medicaid Notification of Termination Requirements: Any Contractor 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 Contractor 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 contractors 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 Contractor 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 contractors and subcontractors receiving federal funds must assure that persons with limited English proficiency can meaningfully access services. To the extent the Contractor 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 Contractor 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 Contractor will assure a drug-free workplace in accordance with 45 CFR Part 76.
7. **Privacy and Security Standards.**

**Protected Health Information:** The Contractor 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 contract. The Contractor 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 Contractor or subcontractor 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 Contractor agrees to comply with the requirements of AHS Rule No. 08-048 concerning access to information. The Contractor 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 Contractor shall ensure that all of its employees and subcontractors 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 Contractor 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 Contractor 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 Contractor will check the Adult Abuse Registry in the Department of Disabilities, Aging and Independent Living. Unless the Contractor holds a valid child care license or registration from the Division of Child Development, Department for Children and Families, the Contractor 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 Contractor 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 Contractor 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 Contractor or subcontractor, shall have full and complete ownership of all software computer programs, documentation and/or source codes developed.

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

If the Contractor is operating a system or application on behalf of the State of Vermont, then the Contractor 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 Contractor's materials.

11. **Security and Data Transfers.** The State shall work with the Contractor 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 Contractor of any new policies, procedures, or protocols developed during the term of this agreement as they are issued and will work with the Contractor to implement any required.

The Contractor 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 Contractor 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 Contractor 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 Contractor shall securely delete data (including archival backups) from the Contractor's equipment that contains individually identifiable records, in accordance with standards adopted by the Agency of Human Services.

12. **Computing and Communication:** The Contractor 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 Contractor as part of this agreement. Options include, but are not limited to:

1. Contractor's provision of certified computing equipment, peripherals and mobile devices, on a separate Contractor'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 Contractor.

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 Contractor 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 Contractor 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.

Contractors 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: \_\_\_\_\_

**8. Required: Contractor cannot subcontract until they receive this signed approval from the State of Vermont. On the reverse side of this form there is language that must be included by the contractor in all subcontracting agreements.**

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

**10. 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.

**11. 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.

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.

**23. 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.

**24. 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.

**UNIVERSITY OF VERMONT TRAVEL REQUEST FORM**  
 (complete and obtain approval 30 days in advance of expenditure)

<b>Travel Destination</b>			
<b>Description of Expense (attach supporting documentation such as meeting agenda, scope of work, work plan, timeline and budget)</b>			
<b>Travel Start Date</b>			
<b>Travel End Date</b>			
<b>Person Traveling (if applicable)</b>		Indicate Traveler's Role (check one):  <input type="checkbox"/> CMO <input type="checkbox"/> MMD <input type="checkbox"/> Other (describe)	
<b>First Name</b>			
<b>Last Name</b>			
<b>Degree/Certification</b>			
<b>Work Address</b>			
<b>Email</b>			
<b>Work Phone</b>			
<b>Cell Phone</b>			
<b>Signature</b>		<b>Date Signed</b>	

<b>Estimated Costs</b>
------------------------

Type of Expense		Brief Description of Expense	Unit Expense	Number of Units (days, miles, materials or other units)	Total Expense
<b>Expense for Training Offered by Other Organizations</b>					
<b>Airfare</b>			\$0.00		\$0.00
<b>Ground Transportation</b>			\$0.00		\$0.00
<b>Mileage</b>			\$0.575		\$0.00
<b>Lodging Per Night</b>			\$0.00		\$0.00
<b>Meals and Tips</b>			\$0.00		\$0.00
<b>Miscellaneous</b>			\$0.00		\$0.00
			<b>Grand Total</b>		\$0.00

<b>Approved:</b>	_____	<b>Date:</b> _____
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<b>Declined:</b>	_____	<b>Date:</b> _____
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	_____	
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Travel and Expenses Form

Travel and Expense Form															
Grantee/ Contractor Name:										Invoice #:					
Starting Location Address:										Invoice Date:					
Grant/Contract Number:															
			Travel					Meal Expenses			Other Expenses (Receipts Required)				
			See UVM Travel Policy V.4.14.3 <a href="http://www.uvm.edu/policies/travel/travel.pdf">http://www.uvm.edu/policies/travel/travel.pdf</a>					See UVM Travel Policy V.4.14.3 Current rate: \$60.00 per day/actual			Receipts Required for Expenses in Categories Listed Below				
Travel Start Date	Travel End Date	Description (name of meeting)	Starting Location	Destination	End Location	Miles	Amount	Breakfast	Lunch	Dinner	Lodging	Airfare	Training/Registration	Other	Total
							\$ -								\$ -
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We the undersigned do hereby certify under that the reported information is accurate to the best of our knowledge and that all requests for services and expenses were incurred while performing work for the State of Vermont. The expenses I am requesting reimbursement for are in compliance with the University of Vermont Travel Policy V.4.14.3. **The State reserves the right to withhold payment if the State does not receive required documentation and receipts.**

Claimant's Signature

Date

Current UVM Travel Policy: <http://www.uvm.edu/policies/travel/travel.pdf>