

STATE OF VERMONT GRANT AGREEMENT				Part 1-Grant Award Detail			
SECTION I - GENERAL GRANT INFORMATION							
¹ Grant #: 03410-1457-15				² Original <input type="checkbox"/>		Amendment # <input type="checkbox"/> 2	
³ Grant Title: Healthfirst, Inc.							
⁴ Amount Previously Awarded: \$55,000.00		⁵ Amount Awarded This Action: \$0.00		⁶ Total Award Amount: \$55,000.00			
⁷ Award Start Date: 01/21/2015		⁸ Award End Date: 06/30/2016		⁹ Subrecipient Award: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>			
¹⁰ Vendor #: 336457		¹¹ Grantee Name: Healthfirst Inc.,					
¹² Grantee Address: 1 Mill Street, Chase Mill- Suite 310							
¹³ City: Burlington			¹⁴ State: VT		¹⁵ Zip Code: 05401		
¹⁶ State Granting Agency: Agency of Human Services				¹⁷ Business Unit: 03410			
¹⁸ Performance Measures: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		¹⁹ Match/In-Kind: \$0.00		Description: Development and implementation of a care management model for the Contractor's Accountable Care Organizations (ACOs).			
²⁰ If this action is an amendment, the following is amended: Amount: <input type="checkbox"/> Funding Allocation: <input type="checkbox"/> Performance Period: <input checked="" type="checkbox"/> Scope of Work: <input type="checkbox"/> Other: <input type="checkbox"/>							
SECTION II - SUBRECIPIENT AWARD INFORMATION							
²¹ Grantee DUNS #: 052330293			²² Indirect Rate: 0.00 % <small>(Approved rate or de minimis 10%)</small>		²³ FFATA: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		
²⁴ Grantee Fiscal Year End Month (MM format): 6			²⁵ R&D: <input type="checkbox"/>				
²⁶ DUNS Registered Name (if different than VISION Vendor Name in Box 11): Healthfirst Inc.							
SECTION III - FUNDING ALLOCATION							
STATE FUNDS							
Fund Type	²⁷ Awarded Previously	²⁸ Award This Action	²⁹ Cumulative Award	³⁰ Special & Other Fund Descriptions			
General Fund			\$0.00				
Special Fund			\$0.00				
Global Commitment (non-subrecipient funds)			\$0.00				
Other State Funds			\$0.00				
FEDERAL FUNDS <small>(includes subrecipient Global Commitment funds)</small>						Required Federal Award Information	
³¹ CFDA#	³² Program Title	³³ Awarded Previously	³⁴ Award This Action	³⁵ Cumulative Award	³⁶ FAIN	³⁷ Fed Award Date	³⁸ Total Federal Award
93.624	State Innovation Models: Funding for Model Design	\$55,000.00	\$0.00	\$55,000.00	11G1CMS331181	04/01/2013	\$45,009,074.92
³⁹ Federal Awarding Agency: Centers for Medicare and Medicaid (CMMI)			⁴⁰ Federal Award Project Descr: State Innovation Model (SIM)				
			\$0.00				
Federal Awarding Agency:			Federal Award Project Descr:				
			\$0.00				
Federal Awarding Agency:			Federal Award Project Descr:				
			\$0.00				
Federal Awarding Agency:			Federal Award Project Descr:				
			\$0.00				
Federal Awarding Agency:			Federal Award Project Descr:				
Total Awarded - All Funds		\$55,000.00	\$0.00	\$55,000.00			
SECTION IV - CONTACT INFORMATION							
⁴¹ STATE GRANTING AGENCY				⁴² GRANTEE			
NAME: Leah Korce				NAME: Amy Cooper			
TITLE: Grants Management Specialist				TITLE: Executive Director			
PHONE: (802) 878-7981				PHONE: (802) 878-8811			
EMAIL: leah.korce@vermont.gov				EMAIL: ac@vermonthealthfirst.org			

AMENDMENT

It is agreed between the State of Vermont, Department of Vermont Health Access (hereinafter called "State") and Healthfirst, Inc., (hereinafter called "Subrecipient") with principal place of business at Williston, VT that the grant #04310-1457-15 dated January 21, 2015 is to be amended January 1, 2016 as follows:

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

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

4. Maximum Amount: In consideration of the services to be performed by Subrecipient, the State agrees to pay Subrecipient, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$55,000.

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

5. Contract Term. The period of Subrecipient's performance shall begin on **January 21, 2016** and end on **June 30, 2016**.

6. Source of Funds: Federal \$55,000 State \$ Other \$

7. Federal Funds Information:

CFDA Title: State Innovation Models (SIM)

CFDA Number: 93.624

Award Name: State Innovation Models: Funding for Model Design

Award Number: 1G1CMS331181

Award Year: FFY14

Federal Granting Agency: Centers for Medicare & Medicaid Services

Research and Development Grant? Yes No

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

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

10. Contact Persons for this Award are as Follows:

	<u>State Fiscal Manager</u>	<u>State Program Manager</u>	<u>Subrecipient</u>
Name:	Leah Korce	Georgia Maheras	Amy Cooper
Phone#:	802-878-7981	802-505-5137	802-878-8811
E-mail:	leah.korce@vermont.gov	georgia.maheras@vermont.gov	ac@vermonthealthfirst.org

NOTICES TO THE PARTIES UNDER THIS AGREEMENT

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

	STATE REPRESENTATIVE	SUBRECIPIENT
Name	Office of General Counsel	Amy Cooper
Address	312 Hurricane Lane, Suite 201 Williston, VT 05495	P.O. Box 2124 South Burlington, VT, 05407
Email	Howard.Pallotta@vermont.gov	ac@vermonthealthfirst.org

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

DVHA MONITORING OF AGREEMENT

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

- 11. Fiscal Year:** Subrecipient’s fiscal year starts on July 1 and ends on June 30.
- 12. Attachments:** This Agreement consists of 27 pages including the following attachments which are incorporated herein:
 - Attachment A – Scope of Work to be Performed
 - Attachment B – Payment Provisions
 - Attachment C – Standard State Provisions: For Grants and Contracts
 - Attachment E – Business Associate Agreement
 - Attachment F – Standard State Provisions: AHS Customary Contract Provisions
 - Appendix I – Required Forms

Order of precedence of these documents shall be as follows:

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

2. Attachment A: By striking out on page 3 of the Base Agreement, item #2, and substituting in lieu thereof:

Dates	Actions
January 15, 2015	Lewin will pull first sample, including 2014 claims data received by December 15, 2014
Dec 2014/Jan 2015	Target for training practices on Commercial ACO auditing tool currently being developed jointly by OneCare Vermont, Community Health Accountable Care, Vermont Collaborative Physicians (VCP)
Feb 1, 2015	Healthfirst/VCP distributes list of records needed to each VCP Participating practice

March 1, 2015	Audit must be completed by practice staff
March 20, 2015	After validating results, HF/VCP submits quality measure data to GMCB/Lewin
TBD	Results for 2014 performance year returned to ACOs/published by GMCB/Lewin
Feb 1, 2016	Healthfirst/VCP distributes list of records needed to each VCP Participating practice
March 1, 2016	Audit must be completed by practice staff
March 20, 2016	After validating results, HF/VCP submits quality measure data to GMCB/Lewin

3. Attachment A: By striking out on page 4 the contact information under the heading “SubGrantee Requirements”, and substituting in lieu thereof:

The Subrecipient shall submit the Request for Approval to Subcontract Form to:

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

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

**ATTACHMENT B
PAYMENT PROVISIONS**

The maximum dollar amount payable under this agreement is not intended as any form of a guaranteed amount. The Subrecipient will be paid for services specified in Attachment A, or services actually performed, up to the maximum allowable amount specified within this agreement. State of Vermont payment terms are Net 0 days from date of invoice, payments against this grant 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:

1. This subgrant is funded by federal grants and is subject to federal approval by the Centers for Medicare and Medicaid Innovation (CMMI). No reimbursement shall be provided under this agreement without federal approval for the task, service, or product for which reimbursement is claimed. The maximum amount payable under this contract for services and expenses shall not exceed \$55,000. Work performed between January 1, 2016 and the signing or execution of this agreement that is in conformity with Attachment A may be billed under this agreement.
 - a. In December 2014 and October 2015, the State received federal approval for \$41,940.
 - b. In December 2015, the State sought federal approval for the time period January 1, 2016- June 30, 2016 in the amount of \$13,600. The Contractor may not begin work for that time

period without written authorization from the State of Vermont. Approval for funding is contingent on CMMI authorization.

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

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

3. **Program Budget:**

Expense	Amount	Notes
Direct Payments to Practices	\$45,780	2,289 charts views @ \$20/view for payments to practices to support staff overtime to pull clinical data off EMR and enter into ACO Audit Tool; will be distributed pro-rate based on number of chart pulls required per practice.
Consultant Fee (clinical data auditing)	\$9,220	Fee for a consultant/auditor to selectively audit clinical data submitted to HF so HF can validate results before submitting to the GMCB.
Total	\$55,000	

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

3. **Invoices.** All requests for reimbursements shall be made using the Invoice – Contracts Agreements form attached, see Appendix I – Required Forms, or a similar format agreed upon by the State and Contractor. All payments are subject to payment terms of Net 0 days. The Subrecipient shall submit invoices to the State quarterly. The State shall reimburse the Subrecipient for Subcontractor costs up to the total maximum amount of this agreement.

The Subrecipient or shall submit each invoice along with the paid subrecipient invoice as supporting

documentation for all reimbursed payments. The State shall reimburse the Subrecipient for Subcontractor costs up to the total maximum amount of this agreement.

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

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

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

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

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

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

against the entire claim or suit.

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

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

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

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

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

Premises - Operations

Products and Completed Operations

Personal Injury Liability

Contractual Liability

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

\$1,000,000 Per Occurrence

\$1,000,000 General Aggregate

\$1,000,000 Products/Completed Operations Aggregate

\$ 50,000 Fire/ Legal/Liability

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

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

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

Professional Liability: Before commencing work on this Agreement and throughout the term of this Agreement, the Party shall procure and maintain professional liability insurance for any and all services performed under this Agreement, with minimum coverage of **\$2,000,000** per occurrence, and **\$2,000,000** aggregate.

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

months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

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

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

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

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

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

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

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

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

**ATTACHMENT E
BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (“Agreement”) is entered into by and between the State of Vermont Agency of Human Services, operating by and through its Department of Vermont Health Access (“Covered Entity”) and HealthFirst, Inc. (“Business Associate”) as of January 21, 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

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

Appendix I – REQUIRED FORMS
Invoice –Grant Agreements

Grantee:	
Address:	
State:	
Zip Code:	

Invoice #:	
Date:	
Contract #:	

Grantee Billing Contact: _____ Phone #: _____

Signature: _____

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

Remittance Address:

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

Appendix I – REQUIRED FORMS
Request for Approval to Subcontract

Date of Request: _____

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

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

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

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

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

Business Office Review

Comments: _____

Approval: _____ Title: _____ Date: _____

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

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

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

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

Taxes Due to the State:

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

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

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

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

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

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

Appendix I – REQUIRED FORMS
Healthfirst Practices Participating in Chart Review Grant

1. Alder Brook Family Health
2. Brookside Family Health Center
3. Office of Bruce Bullock, M.D.
4. Charlotte Family Health Center
5. Office of Christopher J. Hebert, M.D.
6. Essex Pediatrics
7. Evergreen Family Health
8. Office of Gene Moore, M.D.
9. Good Health
10. Green Mountain Pediatrics
11. Hagan, Rinehart and Connolly Pediatricians
12. Office of Joseph D. Nasca, M.D.
13. Office of Max Bayard, M.D.
14. Office of Michael J. Corrigan, M.D.
15. Middlebury Family Health
16. Mousetrap Pediatrics
17. Office of Paul Rogers, M.D.
18. Pediatric Medicine
19. Richmond Family Medicine
20. Richmond Pediatric and Adolescent Medicine
21. Office of Seth Coombs, M.D.
22. Thomas Chittenden Health Center
23. White River Family Practice
24. Winooski Family Health

This amendment consists of 21 pages. Except as modified by this amendment and any previous amendments, all provisions of this grant #03410-1457-15 dated January 21, 2015 shall remain unchanged and in full force and effect.

By the STATE OF VERMONT

By the SUBRECIPIENT

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

Amy Cooper, Executive Director Date
Healthfirst, Inc.
1 Mill Street, Chase Mill, Suite 310
Burlington, VT 05401
Phone: 802-878-8811
Email: ac@vermonthhealthfirst.org