

1. **Parties:** This is a Grant Agreement between the State of Vermont, Agency of Human Services, **Department of Vermont Health Access** (hereinafter called “State”), and **Vermont Information Technology Leaders, Inc.** (hereinafter called “Grantee”) with a principal place of business at 144 Main Street, Montpelier, VT 05602. Grantee is required by law to have a Business Account Number from the Vermont Department of Taxes
2. **Subject Matter:** The subject matter of this Grant Agreement is for the Grantee to work with providers and other stakeholders in creating and managing the Vermont Health Information Exchange Network. Detailed services to be provided by the Grantee are described in Attachment A.
3. **Maximum Amount:** In consideration of the services to be performed by Grantee, the State agrees to pay Grantee, in accordance with the payment provisions specified in Attachment B, a sum not to exceed **\$5,157,469**.
4. **Grant Term:** The period of Grantee’s performance shall begin on July 1, 2012 and end on June 30th 2013.
5. **Source of Funds:** The State will provide funding from various sources including but not limited to:
ARRA Section 3013 Funds
ARRA Section 4201 Funds
HIT Funds
6. **Amendment:** No changes, modifications, or amendments in the terms and conditions of this Grant Agreement shall be effective unless reduced to writing, numbered, and signed by the duly authorized representative of the State and Grantee.
7. **Cancellation:** This Grant Agreement may be suspended or cancelled by either party by giving written notice at least 30 days in advance.
8. **Contact persons:** The Grantee’s contact person for this award is: David Cochran, President & CEO; 802-223-4100; dcochran@vitl.net. The State’s contract person is: Hunt Blair, Deputy Director Health Care Reform; 802-879-5625; hunt.blair@ahs.state.vt.us
9. **Fiscal Year:** The Grantee’s fiscal year starts July 1 and ends June 30.
10. **Attachments:** This Grant consists of 35 pages including the following attachments that are incorporated herein:
 - Attachment A - Scope of Work to be Performed
 - Attachment B - Payment Provisions
 - Attachment C - Customary State Provisions for Contracts & Grants
 - Attachment E - Business Associates Agreement
 - Attachment F - AHS Customary Provisions
 - Appendix 1 - Operations Metrics
 - Appendix 2 - SFY13 Interface Plan
 - Appendix 3 - Description of Services
 - Appendix 4 - ONC-HIE-PIN-02 Program Priorities

The order of precedence of documents shall be as follows:

1. This document
2. Attachment C
3. Attachment A
4. Attachment B
5. Attachment E
6. Attachment F
7. Appendices 1-4

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

AGREEMENT. STATE OF VERMONT

GRANTEE

By:

By:

Hunt Blair, Deputy Commissioner
Department of Vermont Health Access

David Cochran, President & CEO
VITL, Inc.

Date: _____

Date: _____

The following information is required for Grants funded in whole or in part with monies from the federal American Recovery & reinvestment Act of 2009.

Legal Name and D-U-N-S® Number on File with the federal Central Contractor Registration (1):

Vermont Information Technology Leaders, Inc.
Print Legal CCR Name

612301296
D-U-N-S® Number (2)

1) The Central Contractor Registration (CCR) is the primary registrant database for the U.S. Federal Government. CCR collects, validates, stores and disseminates data in support of agency acquisition missions. FREE registration is available at:
<http://www.ccr.gov/Default.aspx>.

2) The D-U-N-S Number is a unique nine-digit identification number assigned and maintained solely by Dun & Bradstreet (D&B). D-U-N-S Number assignment is FREE for all businesses required to register with the US Federal government (see # 1 above) for contracts or grants. Created in 1962, the Data Universal Numbering System or D-U-N-S® Number is D&B's copyrighted, proprietary means of identifying business entities. Register at:
https://leupdate.dnb.com/reguestoptions.asp?cm_re=HomepageB*TopNav*DUNSNumberTab

ATTACHMENT A SPECIFICATION OF WORK TO BE PERFORMED

Pursuant to 18 V.S.A. Chapter 219 § 9352, the State is awarding this procurement grant to the Grantee so that they may continue to operate and expand the use of the Vermont Health Information Exchange (VHIE) network.

The State has additional agreements that supplement the scope of work described herein:

- A grant to support the expansion of Electronic Health Record (EHR) and provider readiness for meaningful use incentives as a match to the Grantee's Section 3012 Cooperative Agreement from the Office of the National Coordinator (ONC) to operate the Regional Extension Center for Vermont.
- Contract #17938 to allow standards-based, immunization event transactions to be submitted to the Vermont Immunization Registry (executed between the Department of Health and the Grantee), and
- A contract to be executed between the State and Grantee to provide service center support to the State as it relates to the Vermont Medicaid EHR Incentive Payment Program

Responsibilities of the Grantee

The Grantee will maintain places of business with sufficient room and electronic capacity so that the Grantee will not need to be located at a State building. The Grantee will not use any state equipment to complete the deliverables noted in this grant. The Grantee will not be assigned a State e-mail account.

The Grantee will manage and operate the VHIE network and will provide interfaces for the flow of health information among Health Care Organizations (HCOs). For purposes of this Agreement, HCOs include but are not limited to the Blueprint Registry, private and commercial labs, hospitals, primary care and specialist practices, and other full spectrum providers. "Interface" shall be defined as the ability to exchange data at the semantic level between and among participants operating on the VHIE network. This includes transfer of demographic and clinical information from hospital and provider practice Electronic Health Record (EHR) systems, transfer of laboratory orders and results, and transfer of diagnostic procedure orders and results. All interfaces must be tested and demonstrated to be fully connected and operational, stable on an ongoing basis, and useable for routine exchange and attested to by the HCO to be considered complete for payment. The interfaces shall contain security features to protect health information. All data that the Grantee collects, stores, or transfers shall comply with applicable HIPAA regulation for security and privacy. The Grantee shall employ a Privacy Officer.

The primary operation of the VHIE network will be through the Grantee's subcontractor Medicity. The Grantee and its subcontractors shall utilize and maintain all hardware and software for the VHIE.

The Grantee shall maintain and will provide the State with their current Security Plan which will include results of the most recent risk assessments. The Grantee will maintain compliance with relevant National Institute of Standards and Technology (NIST) guidelines and other national standards (where applicable).

The Grantee shall maintain documentation including policies and procedures regarding operation of the VHIE, and will provide this documentation to the State at the State's request.

The Grantee shall conduct the business of this agreement, in coordination and collaboration with the State and its other contractors, to work toward the achievement of the following goals that health information is available at the point of care that:

- a. is up to date and accurate
- b. can be shared with patients and providers, as necessary and appropriate
- c. allows for measurement and improvement over time

The Grantee will be participate with the State and its contractors and grantees, including but not limited to, Covisint, Bi-State Primary Care Association, and Blueprint for Health community grantees, on a series of end-to-end demonstration projects at practice sites and with other health care providers and organizations. Pursuant to the demonstration projects, the Grantee will implement a plan, as approved by the State at each incremental, iterative step, to expand the VHIE that links EHR adoption, connectivity of EHR's to the VHIE, and expansion of the Blueprint for Health in a coordinated effort. In addition, the Grantee is doing work complementary to the process described above for Federally Qualified Health Centers. Grantee policies and procedures will address how data flows to the VHIE from EHR's and other data sources.

The State, the Grantee, Covisint, and other entities (as necessary) will manage the work of the demonstration projects described in this agreement, participate in working sessions to update project implementation, identify issues requiring collaborative solutions, and continuously update the implementation plan and framework. he Grantee will provide updated versions of Appendix 1 when submitting invoices and as part of the reporting requirements. The Grantee will participate in both scheduled and *ad hoc* meetings, including but not limited to; the HIE-HIT General Stakeholders meetings, the Privacy and Security Work Group convened by the State, the Blueprint Executive Committee and other Blueprint Advisory committees and work groups, and management and implementation teams and work groups established related to the responsibilities of this agreement.

The Grantee will develop new methods and systems for aligning work with the State's objectives, as outlined in this agreement and developed through the demonstration projects, for evaluating and reporting on the Grantee's own performance, for aligning that performance with all State HIT-HIE related grantees and contractors, and for responding to any deficiencies in a timely and visible manner.

The Grantee shall complete all deliverables within the guidelines and standards of the *Vermont Health Information Technology Plan*, as revised October 26, 2010 and as further revised and approved by ONC, the legislative Joint Fiscal Committee, and the Green Mountain Care Board.

The Grantee shall be fully responsible for any work completed by sub-grantees, and all work performed by sub-grantees is subject to all conditions and requirements included in this grant.

The Grantee will accomplish the following deliverables. Appendix 3 has a more complete description of these services.

A. Base activities:

1. Core operations in support of HIE operation expenses: **Indirect** refers to general and administrative expenses for HIE personnel and Grantee operations allocated based upon direct hours worked on HIE initiatives using generally accepted accounting principles (GAAP). These include but are not

limited to salary and benefits, insurance, professional and legal, outreach and education, occupancy and rent, telecommunications, operations, meetings and professional development, and depreciation.

SFY13 Core Operations: \$838,456

2. HIE Project Management Expense: **Direct** refers to project management and associated expenses providing HIE operations and interface development:
SFY13 Direct HIE Project management Expense \$1,316,657
3. Vendor contract expense: Licensed software (\$508,668), and infrastructure hosting (\$247,878):
SFY13 Vendor Contract Expense \$756,546
4. Grantee is held to the performance standards outlined in Attachment B, where a total of \$59,391 is either at-risk for being withheld, or provided as a maximum incentive bonus.

Total A: Indirect Expenses, Direct Expenses, and Vendor Contracted Expenses:

SFY13 \$2,971,050

B. Hospital and Primary Care Connectivity:

4. **HIE Hospital and primary care connectivity:** Expenses incurred in the implementation of various interfaces. Includes direct costs to the Vendor for interface implementation fees, and reimbursement to HCOs for interface implementation fees.
 - 4.1 Hospital connectivity - SFY13 \$121,000 (Medicity)
 - 4.2 Blueprint interfaces – SFY13 \$213,060 (Medicity) plus \$231,875 (vendor reimbursement)
 - 4.3 Results interfaces – SFY13 \$42,500 (Medicity) plus \$233,750 (vendor reimbursement)
 - 4.4 Immunization interfaces – SFY13 \$0 (Medicity) plus \$45,000 (vendor reimbursement)
 - 4.5 Practice incentives to increase/improve interface deployment performance – SFY13 \$250,000

Total B: Hospital and Primary Care Connectivity: \$1,137,185

C. New activities – Known and specified:

5. Installation of community health record (Proaccess) - \$7,000
6. Support of secure messaging to exchange clinical information using NwHIN Direct-compliant technology. - SFY13 \$34,400
7. Maintaining the VITL Service Center – FTEs and software to provide help desk support for customer interface issues and meaningful use issue tracking – SFY13 \$160,334. . Includes support to the State for the Vermont Medicaid EHR Incentive Payment Program.
8. Full Spectrum Provider (FSP) support – Grantee staffing / support, expansion planning, and interface development, implementation, and testing expenses related to connectivity projects for

Home Health Agencies, Designated Agencies (Community Mental Health Centers and

Developmental Services Agencies), and independent Mental Health, Behavioral Health, and Substance Abuse Counseling providers, and Nursing Home and other Long Term Care providers. – SFY13 \$150,000

9. Medication history – Provide licenses to access Medicity medication history at all 14 Vermont hospitals, in support of emergency department clinicians providing acute care. Training and education will be provided as part of core services SFY13 \$100,000.
10. MPI management – The Grantee intends to conduct an assessment with a contracted service of the MPI patient matching algorithms, develop processes for correcting errors, and conduct periodic quality control tests in order to maintain a small percentage of erroneous matched and unmatched patients. SFY13 \$107,500.
11. Normalized hospital lab data exchange – to maintain LOINC mapping at hospital labs, to support ONC-HIE-PIN-002. SFY13 \$80,000.
12. ONC-HIE-PIN-002 – The Grantee will support the State in fulfilling its responsibilities for the PIN as it relates to Phasing, Sustainability, Evaluation, and Tracking Program Progress. The specific responsibilities of Grantee are to assist and report on the program priorities as provided in Appendix 4. SFY13 cost is included in Direct Project Management expenses A.2.

Total C: New Activities – Known and Specified: \$639,234

D. New activities – To Be Developed:

13. The State has indicated interest in a number of initiatives that will be defined and budgeted as part of the end-to-end and other demonstration projects being developed by the State and the Grantee collaboratively with the Blueprint for Health and other State contractors and grantees. The initiatives include but are not limited to:

- Support of Specialists installing interfaces
- VHIE identity management that integrates with the AHS Enterprise SOA MPI
- Public Health death registry– System planning and software development and services to support persistence of a death indicator across reporting registries.
- Planning for a consumer portal
- Expansion of the VHIE to support radiology imaging (DICOM)

Grantee will undertake a new initiative in this category only upon pre-approval by the State. SFY13 \$210,000.

HCO Connectivity:

The Grantee shall perform the following, related to connectivity:

1. Paperwork / assessments – Complete connectivity and business associate agreements. Conduct technical and operational readiness assessments. Obtain vendor quotes and complete project charters.
2. Establish connectivity – Install technical components that enable connectivity between entities. Complete questionnaires necessary to build interface specifications.
3. Analyze messages – Source systems generate a large number of production messages.

- Analyze the messages to capture the content of what is being sent, and with the completed questionnaires, develop a complete specification. Define mappings necessary for Blueprint.
4. Build – Build the interface. Create the complex software code (interface) that creates or
 5. receives a data file (message).
 6. Test – Install the interface in a test environment, and insure that it performs as specified.
 7. Training / Go-Live – Move the tested interface from a test environment to a production environment.
 8. Post-Live – Monitor the production interface to insure it is stable. Once stable turn it over to support mode.

Demonstration Projects

The Grantee will be held to performance measures based on successful EHR end-to-end demonstrations at practice sites. The measure will allow for both penalties and rewards, based on the number of demonstrations completed by the timeline shown in the diagram on page 15; the amount of reimbursable operating costs will be either rewarded or penalized. Eligible practices may be either part of the Blueprint for Health program or non-Blueprint practices to be considered a successful demonstration. A demonstration may also include end-to-end exchange of information from practices to the Immunization Registry or other public health database operated by the Vermont Department of Health (VDH). Further details can be found in Attachment B and the corresponding diagram.

Responsibilities will vary with the specific needs of the demonstration, but may include:

1. Participating actively in joint planning and implementation team sessions with state, Covisint and Grantee leadership;
 - a. The President and CEO of the Grantee's Organization will be a member of the Demonstration Implementation Team of organizational leaders;
2. Assisting with the evaluation and modification of templates and workflows to support appropriate data collection;
3. Overseeing appropriate configuration and testing of the HIE to transmit data effectively;
4. In collaboration with the state and Covisint, plan and deploy identity management capabilities to manage both provider and consumer identity resolution;
5. Adapt and adopt modifications to existing scopes of work based on the findings from the end-to-end demonstrations in collaboration with the state.

The operation of the demonstration projects will be more fully described and maintained within the structure and operation of the demonstration implementation team.

Purchased Services in support of Demonstration Projects: SFY13 \$200,000, not to exceed this amount without prior approval by the State.

Total D: New Activities – To Be Developed: SFY 13 \$410,000

No later than September 30, 2012, the State and Grantee shall develop an amended version of this agreement that more fully describes the scope and deliverables of the demonstration projects in D and that more fully integrates content currently shown in both Attachments A and B.

The State shall:

1. Provide Grantee with a regularly updated list of Blueprint community project managers and the

- practices which those project managers and Blueprint leadership have identified as prospective Implementation Practices.
2. As the Accountable Care Partnership Payment Reform pilot develops, provide Grantee with a regularly updated list of those specialty practices or other participating organizations or institutions that will be part of the regional pilots.
 3. Facilitate contact between the Grantee and Covisint and collaborative work on revisions to and maintenance of the Covisint data dictionary and related template and interface design issues.
 4. Provide Grantee with liaison or facilitator to work with Grantee to assist in the testing and transmission of data between the Implementation Practices and Covisint.
 5. Convene routine meetings to review progress and jointly agree to modifications to expected scopes of work.
 6. Provide understandable communication materials about health reform initiatives that can be used by implementation staff and project managers to educate providers and align their expectations relative to state programs.
 7. Provide timelines and plans for practices including such information as, for example, NCQA scoring dates, interface schedule desires, minimum data sets for transmission to Blueprint, etc.

Reporting:

- a. **Annual Reports.** No later than January 15 of each year, the Grantee shall file a report with the Commission on Health care reform; the Secretary of Administration; the Commissioner of Information and Innovation; the Commissioner of Banking, Insurance, Securities, and Health Care Administration; the Commissioner of the Department of Vermont Health Access; the Secretary of Human Services; the Commissioner of Health; the Commissioner of Mental Health; the Commissioner of Disabilities, Aging, and Independent Living; the Senate Committee on Health and Welfare; and the House Committee on Health Care. The report shall include an assessment of progress in implementing health information technology in Vermont and recommendations for additional funding and legislation required. In addition, the Grantee shall publish minutes of Grantee meetings and any other relevant information on a public website.
- b. **Progress Reports and Expenditure Reports.** Grantee shall file expenditure reports with the State on a monthly basis. Grantee shall file progress reports with the State on a quarterly basis. The State reserves the right to request that the Grantee provide
- c. **Grantee Operations Metrics Reports.** The Grantee shall submit Quarterly Operations Metrics Reports to document the monthly progress toward the deliverables of this grant and the Grantee's overall progress on HIT expansion. This will follow the format in Appendix 1.

ATTACHMENT B
PAYMENT PROVISIONS

The funds used to support this agreement, in full or in part, are provided through the federal American Recovery & Reinvestment Act (ARRA or the Act); this agreement therefore is subject to payment criteria and specific reporting requirements mandated by the Act. A periodic report, certified by an authorized agent of the Grantee, utilizing the form provided by the State of Vermont and attached hereto, shall be submitted as required. Failure to submit timely, accurate and fully executed reports will result in a mandate to return to the State funds already disbursed under this agreement, or the withholding of current and future payments under this agreement until such time as the reporting irregularities are resolved to the State's satisfaction.

For subrecipients who report awards of federal funds to the State, said subrecipient agrees to include information of ARRA funding separately from other federal awards reported on their Statement of Expenditures of Federal Awards (SEFA).

The parties to this agreement are further bound by the Act that they shall promptly refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, contractor, subrecipient, contractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving the ARRA funds used to support this agreement.

The State shall pay the Grantee for work performed as described in Attachment A in conjunction with the Grantee budget set forth below. The maximum payable amount under this Grant shall not exceed \$5,157,469. The maximum dollar amount payable under this Agreement is not intended as any form of a guaranteed amount. The Grantee will be paid for products and services actually performed as specified in Attachment A, up to the maximum allowable amount specified in this Agreement. The payment schedule for delivered products, or rates for services performed, and any additional reimbursements, are included in this Attachment. The State of Vermont's standard payments terms are Net 30 days from date of invoice.

Fiscal Year 2013 Budget

A. Base Activities:

Core Operations in Support of State HIE Operations:

Administrative Salaries & Benefits	\$	528,714
Insurance	\$	40,730
Professional & Legal	\$	42,767
Outreach and Education	\$	55,979
Occupancy/Rent	\$	83,341
Telecommunications	\$	40,230
Operational Expense	\$	24,902
Meetings, Travel, Professional Development	\$	5,448
Miscellaneous		
Depreciation	\$	16,344
A.1. Total Core Operations Expenses:	\$	838,456
Direct Project Management Expenses:		
Direct Salary & Benefits	\$	754,071
Direct Travel, Meetings	\$	64,058
Direct Consulting Services	\$	470,800
Direct IT Expense (equipment, software)	\$	27,728
A.2. Total Direct Project Management Expenses:	\$	1,316,657
A.3. Direct State-wide Medicity Contract Expense:	\$	756,546
Total A: Base Expenses:	\$	2,911,659

B. Hospital and Primary Care Connectivity

Connectivity Expense:

B.4.1. Hospital Interface Implementation - Medicity Fees	\$	121,000
B.4.2. Blueprint Practice Interface Implementation - Medicity Fees	\$	213,060
B.4.2. Blueprint Practice Interface Implementation - Vendor Fees	\$	231,875
B.4.3. Lab and Radiology – Medicity	\$	42,500
B.4.3. Lab and Radiology - Vendor Fees	\$	233,750
B.4.4. Immunization connectivity	\$	45,000
B.4.5. Practice Incentives for Interface Deployment	\$	250,000
Total B: Hospital and Primary Care Connectivity:	\$	1,137,185

C. New Activities - Known and Specified

C.5. Community Health Record - ProAccess	\$	7,000
C.6. Secure messaging	\$	34,400
Service Center		
Salary & Benefits	\$	149,006
Software support license	\$	11,328
C.7. Service Center	\$	160,334
Full Continuum Provider Implementation Support		
Designated agencies	\$	50,000
Home health	\$	50,000

	Long term care	\$	50,000
C.8.	Total Full Continuum Provider Implementation Support:	\$	150,000
C.9.	Medication history services to hospitals:	\$	100,000
C.10.	MPI management - hospital and practices duplication assessments	\$	107,500
C.11.	LOINC mapping for Hospital Labs (PIN-002)	\$	80,000
C.12.	Other processes to meet PIN-002		
Total C:	New Activities - Known and Specified	\$	639,234

D. New Activities - To Be Developed:

Other Items in Development:

- Support of Specialists installing interfaces
- VHIE identity management that integrates with the AHS

Enterprise SOA MPI

- Public Health death registry– System planning and software development and services to support persistence of a death indicator across reporting registries.

- Planning for a consumer portal

- Expansion of the VHIE to support radiology imaging (DICOM)

D.13.	Total Other Items in Development (estimate)		\$210,000
D.14.	Purchased Services in support of Demonstration Projects		\$200,000
Total D:	New Activities - To Be Developed:	\$	410,000
	Grantee Performance Incentive (+ - up to \$59,391)		59,391
Total Grantee Performance Incentive:		\$	59,391
	State HIE FY2013 Grant Budget Total:		\$ 5,157,469

Variiances of the subtotal budget items shall not exceed 10% without prior approval from 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.

For reimbursement purposes, the Grantee's expenses are divided into Core Operations (A.1 above) and Project Operations (A.2, A.3, B, C, and D). Grantee will invoice for core operations expenses on a monthly basis. Reimbursement for core operations will include a performance incentive plan described below.

Grantee will invoice for Project Operations on a quarterly basis. The first invoice will be generated at the beginning of the fiscal year and will be for 25% of the annual project operations budget (\$1,053,655 = \$4,214,622 x 25%). Subsequent quarterly invoices will be generated after periods ending 9-30-2012, 12-31-2012, and 3-31-2013 for actual project operations expenses incurred.

A final expenditure report is due no later than 45 days after the end of the grant, unless an extension is granted by the State of Vermont, and will be reconciled to actual costs incurred for the grant term (07/01/12 – 06/30/13), and will include the impact of the Grantee performance incentive plan. Any overpayment of expenses will be returned to the State no later than September 15, 2013.

Grantee Performance Incentive Plan:

For the first six months of the grant agreement, the State will reimburse the full amount of the Grantee's Core monthly operating costs (pending approval from the State Health Care Reform director.) At the seven month mark, the performance measures referenced in the Performance-Based Payment diagram will take effect.

The diagram displays a corresponding number indicating the number of demonstrations associated with three categories: performing above the goals, performing below the goals, and performing at the baseline. The demonstrations will be rewarded or penalized based on 5% increments, which represent the reimbursable amount of the Grantee's operating costs. The "Contract Months" schedule in the diagram displays the amount of penalty or reward based on the corresponding month. The symbol "<" indicates "less than", and "= >" indicates "equal to, or more than." The Grantee shall submit a report of total end to end demonstrations included with each monthly invoice submission after the seven month mark of the Grant agreement.

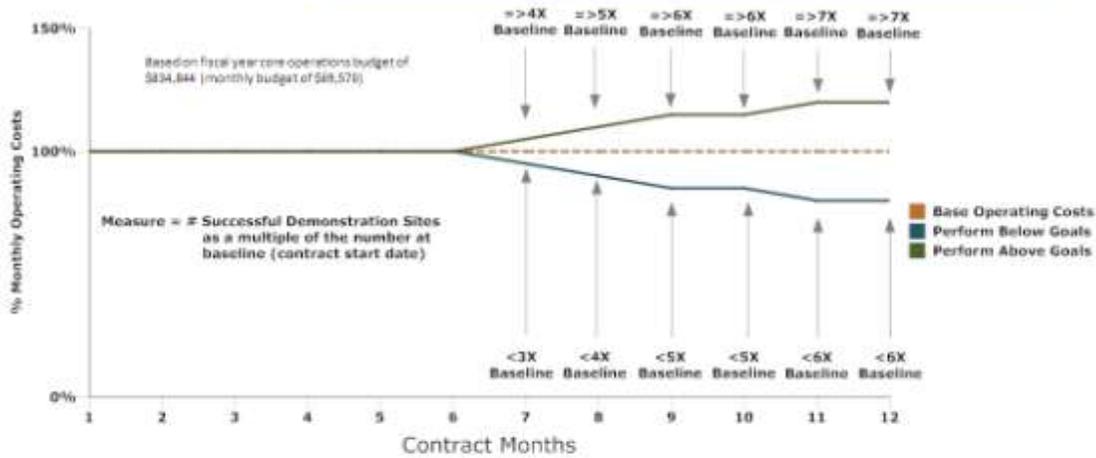
For situations in which a penalty may be assessed, such assessment shall not be made to the extent that the failure can be attributed to:

- Unforeseeable catastrophic events experienced at the Grantee's local and corporate facilities,
- Unforeseeable catastrophic events experienced by State which has a material effect on the Grantee, or
- Complying with any directions of the State or its employees regarding changes to Scope of Work.
- Quarterly adjustments resulting from the Demonstration Projects protocol described in Section D of the Statement of Work.

Based on a fiscal year core operating cost budget of \$838,456, and using pro-rated monthly budget amounts of \$691,871, the maximum total incentive reward for the year is capped at \$59,391. Similarly, the maximum total incentive penalty for the year is capped at \$59,391.

VITL – Performance Based Payment
 End to end demonstrations

Max month by month +/- Incentive	5%	10%	15%	15%	20%	20%	Total Maximum \$59,391
	1,194	1,387	10,401	10,401	11,874	11,974	



	1	2	3	4	5	6	7	8	9	10	11	12
Base Operating Costs	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
Perform Below Goals	100%	100%	100%	100%	100%	102%	95%	90%	85%	83%	80%	80%
Perform Above Goals	100%	100%	100%	100%	100%	100%	105%	110%	115%	115%	120%	120%

Payments to the Grantee under this grant agreement shall not exceed **\$5,157,469**.

Invoices and quarterly expenditure reports shall be signed by an authorized representative of Grantee and submitted to:

Business Office
 Department of Vermont Health Access
 312 Hurricane Lane, Suite 201
 Williston, VT 05498-2087

ATTACHMENT C CUSTOMARY 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 appropriations are insufficient to support this Agreement, the State may cancel on a date agreed to by the parties or upon the expiration or reduction of existing appropriation authority. In the case that this Agreement is funded in whole or in part by federal or other non-State funds, and in the event those funds become unavailable or reduced, the State may suspend or cancel this Agreement immediately, and the State shall have no obligation to fund this Agreement 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. The Party shall notify its insurance company and the State within 10 days of receiving any claim for damages, notice of claims, pre-claims, or service of judgments or claims, for any act or omissions in the performance of this Agreement.

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 coverage is 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 coverage 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 Agreement, 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 \$N/A per occurrence, and \$N/A 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, and if this Subrecipient expends \$500,000 or more in federal assistance during its fiscal year, the Subrecipient is required to have a single audit conducted in accordance with the Single Audit Act, except when it elects to have a program specific audit.

The Subrecipient may elect to have a program specific audit if it expends funds under only one federal program and the federal program's laws, regulating or grant agreements do not require a financial statement audit of the Party.

A Subrecipient is exempt if the Party expends less than \$500,000 in total federal assistance in one year.

The Subrecipient will complete the Certification of Audit Requirement annually within 45 days after its fiscal year end. If a single audit is required, the sub-recipient will submit a copy of the audit report to the primary pass-through Party and any other pass-through Party that requests it within 9 months. If a single audit is not required, the Subrecipient will submit the Schedule of Federal Expenditures within 45 days. These forms will be mailed to the Subrecipient by the Department of Finance and Management near the end of its fiscal year. These forms are also available on the Finance & Management Web page at: <http://finance.vermont.gov/forms>

- 10. Records Available for Audit:** The Party will maintain all books, documents, payroll papers, accounting records and other evidence pertaining to costs incurred under this agreement and make them available at reasonable times during the period of the Agreement and for three years thereafter 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. The State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this Agreement.
- 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 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.

- 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.
- 19. Certification Regarding Use of State Funds:** In the case that Party is an employer and this Agreement is a State Funded Grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.

ATTACHMENT E BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”) is entered into by and between the State of Vermont Agency of Human Services, operating by and through its **Department of Vermont Health Access** (“Covered Entity”) and **Vermont Information Technology Leaders** (“Business Associate”) as of **July 1, 2012** (“Effective Date”). This Agreement supplements and is made a part of the 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.

The parties agree as follows:

1. **Definitions.** All capitalized terms in this Agreement have the meanings identified in this Agreement, 45 CFR Part 160, or 45 CFR Part 164.

The term “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.

The term “Individual” includes a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

The term “Breach” means the acquisition, access, use or disclosure of protected health information (PHI) in a manner not permitted under the HIPAA Privacy Rule, 42 CFR part 164, subpart E, which compromises the security or privacy of the PHI. “Compromises the security or privacy of the PHI” means poses a significant risk of financial, reputational or other harm to the individual.

2. **Permitted and Required Uses/Disclosures of PHI.**

2.1 Except as limited in this Agreement, Business Associate may use or disclose PHI to perform Services, as specified in the underlying grant with Covered Entity. 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.

2.2 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 (including subcontractors) in accordance with Sections 8 and 16 or (b) as otherwise permitted by Section 3.

3. **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 (a) 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 (b) the person notifies Business Associate, within three business days (who in turn will notify Covered Entity within three business days after receiving notice of a Breach as specified in Section 5.1), in writing of any Breach of Unsecured PHI of which it is aware. Uses and disclosures of PHI for the purposes identified in this Section 3 must be of the minimum amount of PHI necessary to accomplish such purposes.

4. **Safeguards.** Business Associate 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 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 shall identify in writing upon request from Covered Entity all of the safeguards that it uses to prevent impermissible uses or disclosures of PHI.

5. **Documenting and Reporting Breaches.**

5.1 Business Associate shall report to Covered Entity any Breach of Unsecured PHI as soon as it (or any of its employees or agents) becomes aware of any such Breach, and in no case later than three (3) 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.

5.2 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.

5.3 When Business Associate determines that an impermissible acquisition, use or disclosure of PHI by a member of its workforce does not pose a significant risk of harm to the affected individual(s), it shall document its assessment of risk. Such assessment shall include: 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 risk of harm. When requested by Covered Entity, Business Associate shall make its risk assessments available to Covered Entity.

6. **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.

7. **Providing Notice of Breaches.**

7.1 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 individuals 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.

7.2 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.

7.3 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).

7.4 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.

8. **Agreements by Third Parties.** Business Associate shall ensure that any agent (including a subcontractor) to whom it provides PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity agrees in a written agreement to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such PHI. For example, the written agreement must include those restrictions and conditions set forth in Section 14. Business Associate must enter into the written agreement before any use or disclosure of PHI by 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 written agreement to Covered Entity upon request. Business Associate may not make any disclosure of PHI to any agent without the prior written consent of Covered Entity.
9. **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.
10. **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.
11. **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.

12. **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.

13. **Termination.**

13.1 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 17.7.

13.2 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 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 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 grant or letter of agreement, nor does it lessen Business Associate's responsibility for such breach or its duty to cure such breach.

14. **Return/Destruction of PHI.**

14.1 Business Associate in connection with the expiration or termination of the grant or letter of agreement 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 grant or letter of agreement 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.

14.2 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.

15. **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.

16. **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.

16.1 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.

6.2 Business Associate shall ensure that any agent (including a 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. 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 without the prior written consent of Covered Entity.

16.3 Business Associate shall report in writing to Covered Entity any Security Incident pertaining to such Electronic PHI (whether involving Business Associate or an agent, including a 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 three (3) 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.

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

17. **Miscellaneous.**

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

17.2 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.

17.3 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.

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

17.5 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.

17.6 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.

17.7 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.

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

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 1 – Operations Metrics

VITL Metrics FY2012 - April 2012													
Regional Extension Center													
Project	Milestones	Metric	Target	Actuals	Forecast FY12				Actuals FY12				Total
				FY10-11	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	To Date
Overall EHR Support	Milestone 1: Signed Agreements		893	797	39	16	16	49 6	32	3	26	0	858
	Milestone 2: Functional EHRs	Care	893	260	85	194	38	152 38	286	23	17	27	613
	Milestone 3: Meaningful Use		845	4	8	42	44	75 92	8	20	3	5	40
Health Information Exchange (HIE)													
Blueprint	HIE Svcs to Blueprint Practices	# of Practices	89	34	0	6 5	20 0	30 38	0	5	0	0	39
Public Health	Public Health Services	# of Services	3	0	0	0	0	4 0	0	0	0	0	0
Hospital Connectivity	Demographic Data	# of	14	2	0	0	5 0	6 10	0	0	1	4	7
	Clinical Data Exchange	Hospitals	14	7	0	0	2 0	4 5	0	0	0	3	10
Practice Connectivity	Contributing Data to VHIE	# of		34	0	6 0	20 0	30 39	0	5	0	0	39
	Extracting Data from VHIE	Practices		27	0	16 0	30 0	44 30	0	-1	0	4	30
HIE Performance	Volume of Data	Average transactions/month (000's)	n/a	n/a					56.9	619.1	641.4	842.3	
	Provider Participation	# registered in MPI	n/a	n/a					n/a	n/a	301.0	318.0	318.0
	Patient Participation	# registered in MPI (000's)	625.0	n/a					n/a	300.3	329.0	359.3	359.3

Appendix 2: SFY13 Interface Plan

Hospital Interfaces		
	Quarter	New Interfaces
	Sep 2012	7
	Dec 2012	3
	Mar 2013	5
	Jun 2013	4
	Net new	19
Blueprint Practices		
	Quarter	New Practices
	Sep 2012	10
	Dec 2012	12
	Mar 2013	14
	Jun 2013	17
	Net new	53
HCO Interfaces		
	Quarter	New Interfaces
	Sep 2012	15
	Dec 2012	17
	Mar 2013	20
	Jun 2013	22
	Net new	74
Immunization Interfaces		
	Quarter	New Interfaces
	Sep 2012	2
	Dec 2012	3
	Mar 2013	5
	Jun 2013	8
	Net new	18

Descriptions:

Hospital Interfaces – Number of new outbound hospital interfaces, including any of ADT, lab result, radiology result (report), transcribed report, or CCD

Blueprint Practices – Number of new Blueprint practices using ADT and any of CCD/MDM/ or other clinical summary

HCO Interfaces – Number of new interfaces at any Health Care Organization, excluding hospitals.

Interfaces include lab orders and results, radiology orders and results, or transcribed results.

Immunization Interfaces – Number of new immunization interfaces sending data to the Vermont Department of Health

Appendix 3: Description of Services **Base Activities – Licensed software and hosting**

Core Operations in Support of State HIE Operations

Indirect general and administrative costs of operating the Grantee organization, with an allocation to the portion of the business that represents the HIE. Includes expenses such as management salaries and benefits, insurance, occupancy, etc.

HIE Project Management Expenses

Direct expenses for operating the HIE. Includes staff salaries and benefits, purchased services to augment staff, staff hardware and software equipment necessary to perform their duties.

Vendor Contract Expense

Contracted costs to Medicity, including:

- Licensed software
- Infrastructure hosting

The licensed software provides the State with the following functionality:

- Master Person Index (MPI) – store patient demographics, identity management (e.g., match individuals across HCOs), consent management
- Community Health Record – a data repository that aggregates clinical data across HCOs
- Interfaces – functionality to establish a network among HCO's, systems to enable the secure transmission, distribution and management of standard messages of

Hospital and primary care connectivity

There are three costs associated with a single interface:

1. The Vendor's implementation charge to the Grantee. This represents one end of the interface.
2. The HCO's implementation cost from their EHR vendor. The Grantee reimburses the HCO for this end of the interface.
3. The HCO's annual support fee for their end of the interface. The HCO is responsible for these costs, and are not included in Grantee budget figures.

New activities – Known and specified

Installation of community health record (Proaccess)

The community upgrade requires an upgrade. The costs are expenses incurred by Grantee staff to be trained in the new functionality

Support of secure messaging to exchange clinical information using NwHIN Direct-compliant technology.

The ONC requires Regional Extension Centers to provide secure messaging using the NwHIN Direct protocol. The budget includes the cost of a 3rd party service to provide secure messaging. If the volume of activity increases substantially, the Grantee plans to bring the functionality in-house.

Maintaining the VITL Service Center

FTEs and software to provide help desk support for customer interface issues, and meaningful use issue tracking. An expansion of services includes support to the State for the Vermont Medicaid

EHR Incentive Payment Program, and support to providers when the community health record is rolled out.

Full Spectrum Provider (FSP) support

Grantee staffing / support, expansion planning, and interface development, implementation, and testing expenses related to connectivity projects for Home Health Agencies, Designated Agencies (Community Mental Health Centers and Developmental Services Agencies), and independent Mental Health, Behavioral Health, and Substance Abuse Counseling providers, and Nursing Home and other Long Term Care providers. As of May 2012 the Grantee is completing interfaces to a nursing home and a behavioral health center, with further expansion during the summer 2012 of secure messaging.

Medication history

Provide licenses to access Medicity medication history at all 14 Vermont hospitals, in support of emergency department clinicians providing acute care. Licensing is determined per 100 beds. Training and education will be provided as part of the Grantee's core services.

MPI management

The Grantee intends to conduct an assessment through a purchased service of the MPI patient matching algorithms, develop processes for correcting errors, and conduct periodic quality control tests in order to maintain a small percentage of erroneous matched and unmatched patients. The budget includes assessments for approximately five hospitals, plus on-going quality control of the community master person index (statewide).

Normalized hospital lab data exchange

ONC-HIE-PIN-002, PIN Priority #3, tracks labs sending results using LOINC. PIN Priority #6 tracks Public Health agencies receiving electronic lab results produced by EHRs in HL7 2.5.1 format with LOINC. The budget will cover a 3rd party organization to update and maintain accurate LOINC codes at 14 Vermont hospitals to facilitate achievement of the PIN objectives.

ONC-HIE-PIN-002

The State must periodically report under the State health Information Exchange Cooperative Agreement Program, using a proscribed format. The Grantee will support the State in fulfilling its responsibilities for the SOP update format, and the nine PIN Priorities. The specific responsibilities of Grantee are to assist and report on the program priorities as provided in Appendix 4.

Appendix 4: ONC-HIE-PIN-02 Program Priorities

Program Priority	Report in first SOP update		Report January, 2013	
	Status as of April 2012	Target for December, 2012	Status as of December, 2012	Target for December, 2013
1. % of pharmacies participating in e-prescribing	Numerator = # pharmacies participating in e-prescribing; Denominator = Total number of licensed pharmacies operating in the state (per NCPDP) $121/134 = 90\%$ (According to the Surescripts state profile for 2010 which are the latest statistics)	90%		
2. % of labs sending electronic lab results to providers in a structured format⁴	14 hospitals and 2 commercial labs = 16 labs, using HL7 2.3 $10/16 = 62.5\%$	$16/16 = 100\%$		$16/16 = 100\%$
3. % of labs sending electronic lab results to providers using LOINC	Hospitals are advised to send LOINC in OBX 3.4 for future reporting purposes. 14 hospitals and 2 commercial labs = 16 labs, using HL7 2.5 $1/16 = 6.3\%$ (Labcorp)	$4/16=25\%$ (3 of BMH, Porter, FAHC, NMC, SVMC, Quest)		$16/16 = 100\%$
4. % of hospitals sharing electronic care summaries with unaffiliated hospitals and providers	Hospitals are sending discharge summaries and radiology reports to community health record. $5/14 = 35.7\%$ (Radiology reports from BMH, Copley, Springfield, Gifford, RRMC)	$7/14=50\%$ (Radiology reports from 2 of NMC, North Country, CVMC, Grace Cottage)		$14/14=100\%$
5. % of ambulatory providers electronically sharing care summaries with other providers	Numerator = # of REC defined PPCP's sending data to the Blueprint Registry; Denominator = Vermont target PPCP's participating in the REC program (893) $318/893 = 35.6\%$	50%		90%

Program Priority	Report in first SOP update		Report January, 2013	
	Status as of April 2012	Target for December, 2012	Status as of December, 2012	Target for December, 2013
6. Public Health agencies receiving ELR data produced by EHRs or other electronic sources. Data are received using HL7 2.5.1 LOINC and SNOMED.	VDH receives lab test data from FAHC, Mayo and LabCorp. The data is all HL7 v2.3.1 format.. Mayo and Labcorp send using LOINC. 1/1=100%	1/1=100%		1/1=100%
7. Immunization registries receiving electronic immunization data produced by EHRs. Data are received in HL7 2.3.1 or 2.5.1 formats using CVX code. Yes/no or %	Numerator = # of immunization registries receiving HL7 2.5.1 VXU Denominator = # of immunization registries receiving HL7 2.5.1 VXU (1) 0/1 = 0%	1/1 = 100%		1/1=100%
8. Public Health agencies receiving electronic syndromic surveillance hospital data produced by EHRs in HL7 2.3.1 or 2.5.1 formats (using CDC reference guide).	0%	TBD the Grantee will develop a plan with Public Health for syndromic surveillance hospital data.		
9. Public Health agencies receiving electronic syndromic surveillance ambulatory data produced by EHRs in HL7 2.3.1 or 2.5.1. Yes/no or %	0%	TBD the Grantee will develop a plan with Public Health for syndromic surveillance ambulatory data.		