

## State of Minnesota Grant Contract Worksheet (Not Part of the Contract)

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Total Amount of Grant Contract \$ _____	
FinDeptID H5532398	amount for state fiscal year _____ :\$ _____
	state fiscal year _____ :\$ _____
FinDeptID H55 _____	amount for state fiscal year _____ :\$ _____
	state fiscal year _____ :\$ _____

\_\_\_\_\_ Unspent encumbrances to be certified to meet future obligations in accordance with Minnesota Statutes, section 16A.28

Starts in fiscal year: 2017	Vendor ID: «Vendor_»
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SWIFT Grant# /Encumbrance #: GRK «Contract\_» / \_30000 \_\_\_\_\_

Number/Date/Initials

Individual signing certifies that funds have been encumbered as required by Minnesota Statutes, section 16A.15.

Notice to Grantee: You are required by Minnesota Statutes, section 270C.65 to provide your social security number or Federal employer tax identification number and Minnesota tax identification number if you do business with the State of Minnesota. This information may be used in the enforcement of federal and state tax laws. Supplying these numbers could result in action to require you to file state tax returns and pay delinquent state tax liabilities. This grant contract will not be approved unless these numbers are provided. These numbers will be available to federal and state tax authorities and state personnel involved in approving the grant contract and the payment of state obligations.

Grantee Name and Address:       «Provider»  
    «Address\_1»  
    «City», «State» «Zip»

Soc. Sec. or Federal Employer I.D.: «Fed\_Tax»

MN Tax I.D. No. (If applicable):   «State1»

# State of Minnesota Department of Human Services Grant Contract for SOAR Advocacy

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THIS GRANT, and amendments and supplements thereto, is between State of Minnesota, acting through the Commissioner of the **Department of Human Services Housing and Support Services Division** (hereinafter STATE) and «Provider», «Address\_1», «Address\_2», «City», «State», «Zip», an independent grantee, not an employee of the State of Minnesota, (hereinafter GRANTEE).

## RECITALS

WHEREAS, STATE, pursuant to Minnesota Statutes, section 256.01, subdivision 2(a)(6) is empowered to enter into contracts with private agencies and organizations, and

WHEREAS, under Minnesota Statutes, section 256.01, subdivision 2(f), STATE is authorized to act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and

WHEREAS, STATE is in need of the following services that are of mutual concern to STATE and the federal government: provide advocacy services to help Minnesotans who have a disability apply for or maintain Federal Social Security disability benefits, and

WHEREAS, under Minnesota Statutes, section 256D.06, subdivision 5(c), STATE may contract with various entities to provide advocacy and support services to process claims for federal disability benefits for applicants or recipients of services or benefits supervised by the commissioner, and

WHEREAS, under Minnesota Statutes, section 13.46, subdivision 1(c) GRANTEE is being made a member of the welfare system via this contract for the limited purposes of this contract. As a result, STATE is permitted to share private data on individuals, as described in contract attachment A, with the GRANTEE in accordance with Minnesota Statutes, section 13.46, subdivisions 2(a)(5)-(7), and

WHEREAS, GRANTEE will receive, maintain, or transmit protected health information on behalf of STATE, a covered entity, GRANTEE expressly agrees that it is a “business associate” of STATE, as defined by HIPAA under 45 C.F.R. § 160.103. The disclosure of protected health information to GRANTEE that is subject to the Health Insurance Portability Accountability Act (HIPAA) is permitted by 45 C.F.R. § 164.502(a)(3), and

WHEREAS, GRANTEE acknowledges, as a business associate under HIPAA, GRANTEE is directly liable under the HIPAA Rules and subject to civil and, in some cases, criminal penalties for making uses and disclosures of protected health information that are not authorized by contract or required by law. GRANTEE is also directly liable and subject to civil penalties for failing to safeguard electronic protected health information in accordance with the HIPAA Security Rule, and

WHEREAS, the current contract in effect for this work has errors and omissions that necessitate it being replaced by this contract, and

WHEREAS, GRANTEE represents that it is duly qualified and willing to perform the services set forth herein,

NOW, THEREFORE, it is agreed:

**1. TERMS OF CONTRACT.** This grant shall be effective on **January 1, 2017**, or upon the date that the final required signature is obtained by the STATE, pursuant to Minnesota Statutes, section 16C.05, subdivision 2, whichever occurs later, and shall remain in effect through **December 31, 2020**, or until all obligations set forth in this grant contract have been satisfactorily fulfilled, whichever occurs first. This contract replaces the current contract (in its entirety) dated January 1, 2017, contract number [«CONTRACT\_»]. The GRANTEE shall have a continuing obligation, after said grant period, to comply with the following provisions of grant clauses: 10. Indemnification; 11. State Audits; 12. Information Privacy and Security; 13. Intellectual Property Rights; 14. Publicity; and 20. Jurisdiction and Venue.

**2. GRANTEE'S DUTIES.** GRANTEE shall provide:

**2.1. Supplemental Security Income (SSI)/Social Security Disability Income (SSDI) Outreach, Access, and Recovery (SOAR) Services.** SOAR is a service to help individuals who are both: (1) homeless or at risk of becoming homeless and (2) have a disability, apply for or maintain Social Security disability benefits. GRANTEE shall provide the following SOAR advocacy services, if applicable:

**(a.) Assist with initial applications, reconsiderations, and appeals.** Provide assistance and representation to clients requiring assistance with obtaining Social Security disability benefits at the initial application, reconsideration, or appeal levels. Clients must meet all of the following eligibility criteria:

1. Be currently homeless, at-risk of homelessness, or living in permanent supportive housing, according to the following definitions:
  - Homeless: An individual who is living outdoors, on the street, in an abandoned or condemned building, or in a shelter that provides temporary living accommodations; or
  - At-Risk of Homelessness: An individual who is in a doubled-up living arrangement where the individual's name is not on the lease, boarding house, eviction notice, halfway house, residential treatment program, rent or utilities in arrears, transitional housing, or youth transitioning out of foster care, or being discharged from an institution or correctional facility without a place to live; or
  - Permanent supportive housing: Living in supportive housing that is designated for individuals who have experienced homelessness; and
2. Must have physical or mental health impairment that will last more than a year or is likely to result in death; and have significant functional impairments that affect their ability to do substantial work activities; and

3. Are under the age of 65; and
4. Live in Minnesota.

**(b.) Maintain Social Security disability benefits.** Provide assistance and representation to clients in their attempts to maintain their Social Security disability benefits, if the Social Security Administration (SSA) requests a Continuing Disability Review (CDR) or they receive a termination of benefits letter. Clients requiring assistance with maintaining their Social Security disability benefits must meet all of the following eligibility criteria:

1. Are homeless or at risk of homelessness or receiving at least one (1) of the following public assistance benefits:
  - Housing Support (formerly known as Group Residential Housing or GRH)
  - Medical Assistance (MA)
  - Minnesota Supplemental Aid (MSA)
  - Qualified Medicare Beneficiaries (QMB)
  - Service Limited Medicare Beneficiaries (SLMB), or
  - Supplemental Nutrition Assistance Program (SNAP), and
2. Are under the age of 65; and
3. Live in Minnesota.

**(c.) Maximize benefits.** When GRANTEE assists an adult client in obtaining Social Security Disability benefits, GRANTEE shall help the client to apply for auxiliary benefits for their dependent children. GRANTEE will need to submit an application for auxiliary benefits under the parent's claim to obtain Retirement, Survivors, and Disability Insurance (RSDI) benefits.

**2.2. SOAR Activities.** GRANTEE shall provide assistance and representation to clients in their attempts to obtain or maintain Social Security disability benefits. GRANTEE must follow all Minnesota SOAR procedures and strategies identified below:

**(a.) Become SOAR-certified.** GRANTEE must successfully complete the SOAR online course before completing SOAR applications and become SOAR-certified within one year of completing the online course. Requirements for SOAR certification are:

1. Complete SOAR online training. The training is located on the SOAR Works website at <https://soarworks.prainc.com/course/ssissdi-outreach-access-and-recovery-soar-online-training>; and
2. Submit three (3) complete Medical Summary Reports (MSR) to STATE for review and approval; and
3. Complete SOAR Fundamentals training offered by STATE.

**(b.) Participate in SOAR events and trainings.** All GRANTEE staff providing SOAR services will attend a minimum of four (4) trainings per year. The STATE offers approximately six (6) trainings a year on various topics related to SOAR advocacy services. Trainings include conferences, seminars, and webinars.

**(c.) Authorized representation.** GRANTEE must complete the Appointment of Representative (SSA-1696) form and serve as the representative for all of its SOAR advocacy clients as defined in clause 2.1(a) through (c).

1. GRANTEE must email a completed SSA-1696 on each client to [dhs.ssaadvocacy@state.mn.us](mailto:dhs.ssaadvocacy@state.mn.us) within ninety (90) days of GRANTEE's decision to accept a client with the following fee arrangement selected: "I am waiving fees and expenses from the claimant and any auxiliary beneficiaries";
2. GRANTEEs who learn that a fee-for-service client meets the eligibility criteria for SOAR advocacy may change a client's fee arrangement and accept them as a SOAR advocacy client only if it benefits the client, and the waiving of fees and expenses occurs before SSA makes a decision on the Social Security disability claim;
3. If the GRANTEE fails to submit an SSA-1696 within ninety (90) days or uses a different fee arrangement without notifying DHS, or has a separate fee arrangement with the client or SSA, the GRANTEE will not receive payment and the STATE may immediately cancel this contract.
4. The SSA-1696 form can be obtained from the U.S. Social Security Administration's website at <https://www.ssa.gov/forms/ssa-1696.pdf>.

**(d.) Outreach.** Provide information about Social Security disability benefits, the application and appeal processes, and other relevant information to prospective clients and communities. GRANTEE is encouraged to partner with county social service agencies, Projects for Assistance in Transition from Homelessness (PATH) agencies, community based organizations, or other organizations to develop comprehensive outreach strategies.

**(e.) Intensive interviews and assessment.** Interview and conduct a comprehensive initial assessment, applying the appropriate criteria of a client's disability claim under the Social Security disability program. The assessment should focus on learning about the client's physical and/or mental health conditions, how it affects their current functioning, and ability to work. The assessment will include: physical and mental conditions; information about doctors, healthcare professionals, hospitals and clinics; income and assets; education and training; military service history; employment history; homeless history; legal history; psychiatric history and current symptoms; substance use; and information about activities of daily living.

**(f.) Assistance with completing and submitting application materials.** Assist clients with completing and submitting online applications and forms located at <https://www.ssa.gov/forms>, as required by SSA or Disability Determination Services (DDS). This may include attending phone or in-person appointments with the client to complete the application process.

**(g.) Developing claims.** Identify and collect medical evidence and submit records to the Social Security Administration (SSA) and/or Disability Determination Services (DDS). This includes collecting the necessary medical, vocational, social service records, functional capacity evidence, and/or expert testimony that will verify the disability claim and facilitate a decision from SSA. If necessary, assist clients

with accessing health services and obtaining any medical evaluations needed to support the Social Security disability claim.

**(h.) Medical Summary Report.** GRANTEE will write a comprehensive medical summary report, which incorporates the functional information per the SOAR online training. The SOAR model recommends the medical summary report be co-signed by a qualified medical professional when possible. GRANTEE must submit a medical summary report with all SOAR application to DDS. GRANTEE will submit a copy of the medical summary report to STATE with all invoices.

**(i.) Collaborate with other service providers.** Establish relationships with local medical providers, social service agencies, medical records departments, and other local health providers to obtain needed documentation for the disability claim. Maintain communication with all service providers working with clients in order to obtain additional documentation and to complete missing information. GRANTEE will assist with referrals and any other needed services and resources.

**(j.) Consultative examination (if applicable).** If a consultative examination (CE) is scheduled by DDS, GRANTEE will assist client in preparing for the examination and ensure they have transportation. GRANTEE will attend the examination if client requests they attend the examination. GRANTEE will follow up with the client after the CE to ensure they attended and to follow up with any questions or concerns.

**(k.) Reconsideration assistance (if applicable).** Assist with filing a reconsideration of client's denied disability claim and submit additional records to support the claim within sixty (60) days. If GRANTEE submitted a medical summary report with the initial application, GRANTEE is not required to submit an updated medical summary report with a reconsideration. If GRANTEE did not assist with the initial application, GRANTEE must submit a medical summary report and additional medical records to DDS. GRANTEE will submit a copy of the medical summary report to STATE with all invoices.

**(l.) Appeals representation (if applicable).** Represent clients who request an Administrative Law Judge (ALJ) hearing. This includes: filing an appeal electronically; completing all required forms, requesting an expedited hearing, if appropriate; maintaining contact with the client throughout the appeal process; completing a medical summary report; submitting supporting evidence; preparing the client when they are required to provide statements or testimony; arranging for transportation; reminding client about their hearing date and the importance of attending the hearing; arranging and referring to appropriate services, including interpreter services and other special needs that a client may require to meet the requirements of the proceeding; helping clients provide all information needed when requested; and representing and attending the ALJ hearing.

**(m.) Maximize benefits (if applicable).** When GRANTEE assists an adult client obtain Social Security disability benefits, GRANTEE shall help the client apply for auxiliary benefits for their dependent children. GRANTEE must submit an application for auxiliary benefits under the parent's claim to obtain

RSDI benefits. In addition, GRANTEE shall assist with providing additional documentation needed to obtain child benefits.

**(n.) Connection to related services and benefits (if applicable).** Assist clients in applying for public assistance benefits and accessing other resources while they wait for a decision from SSA. Upon approval of Social Security disability, clients should be provided with information on how to apply for other benefits they may be eligible for, particularly Minnesota Supplemental Aid (MSA), MSA Housing Assistance, Medicare, and Medicare savings programs.

**(o.) Referral to Social Security Benefits (SSB) or SOAR agency (if applicable).** When GRANTEE assists a SOAR client with a reconsideration and receives a denied claim, the GRANTEE can refer the client to a STATE-contracted SSB advocacy or SOAR agency for representation at an appeal hearing (from either an Administrative Law Judge hearing, Appeals Council, or Federal Court). This will be referred to as a “warm hand off”. The referral must be a different SSB advocacy or SOAR agency contracted by the STATE who represent clients at appeal hearings. The GRANTEE will contact the SSB advocacy or SOAR agency to see if they are able to accept the SOAR client. If the agency accepts the SOAR client, GRANTEE will provide the SSB advocacy or SOAR agency with client demographic information and contact information; medical summary report; medical, school, or vocational records; and any other information to assist with the disability claim. GRANTEE will provide the SOAR client with the name and phone number of the SSB advocacy or SOAR agency.

**(p.) Submission of paper data to STATE.** Until the electronic Social Security Benefits Advocacy (SSBA) Provider Payment System is available, GRANTEE must email a client’s SSA-1696 to [dhs.ssaadvocacy@state.mn.us](mailto:dhs.ssaadvocacy@state.mn.us) within ninety (90) days of accepting them. GRANTEE must complete the SOAR Data form, which is attached and incorporated into this contract as Attachment B, for each decision received on a client. To receive payment, GRANTEE must email a completed Invoice Form, medical summary report, and SOAR data form to [dhs.ssaadvocacy@state.mn.us](mailto:dhs.ssaadvocacy@state.mn.us). GRANTEE may email the SSA award letter to expedite processing of the invoice to [dhs.ssaadvocacy@state.mn.us](mailto:dhs.ssaadvocacy@state.mn.us). Once the SSBA Provider payment System is available, GRANTEE must use the electronic system and follow the policies and procedures listed in the user manual.

**(q.) Submission of electronic data to STATE.** The electronic SSBA Provider Payment System should be available for GRANTEE to submit data to the STATE in Fall 2018. GRANTEE must enter client information within ninety (90) days into the SSBA Provider Payment System, upload the SSA-1696, upload the medical summary report, and submit an electronic invoice for payment. GRANTEE may upload the SSA award letter to expedite processing of the invoice. The GRANTEE must use the SSBA Provider Payment System and follow the policies and procedures listed in the user manual. GRANTEE will no longer email the documents as identified in clause 2.2 (p).

**2.3.** All services under this contract shall be performed within the borders of the United States, except as may be otherwise required by the World Trade Organization Government Procurement Agreement of

1996<sup>1</sup>. This includes all storage and processing of information and work performed by subcontractors at all tiers.

**2.4.** All services provided by GRANTEE pursuant to this contract shall be performed in accordance with all applicable federal, state, and local laws, ordinances, rules and regulations.

### **3. CONSIDERATION AND TERMS OF PAYMENT.**

**3.1. Consideration.** Consideration for all services performed and goods or materials supplied by GRANTEE pursuant to this grant shall be paid by the STATE as follows:

#### **(a.) Compensation**

1. For purposes of this contract, “payment rate” means GRANTEE’s charge for the direct provision of SOAR advocacy services to a client as identified in clause 2.1 (a)-(c)
2. STATE shall pay the GRANTEE only for the payment rate related to provision of services identified in the payment rate schedule below for SOAR advocacy:
  - a. For each client whom GRANTEE provided assistance with the submission of an initial application or reconsideration with a complete Medical Summary Report, STATE shall pay GRANTEE seven hundred fifty dollars (**\$750**).
  - b. For each client whom GRANTEE provided assistance with the submission of an initial application or reconsideration with a complete Medical Summary Report and a successful outcome is achieved, STATE shall pay GRANTEE an additional one thousand eight hundred dollars (**\$1,800**) (to total two thousand five hundred fifty dollars (**\$2,550**)).
  - c. For transportation needed for application assistance, assessments and consultative exams requiring 60 miles to 100 miles round trip, the STATE shall pay GRANTEE the Internal Revenue Service (IRS) mileage reimbursement rate. The STATE will consider mileage reimbursement over 100 miles round trip on a case by case basis. GRANTEE shall request authorization for mileage over 100 miles by sending an email to [dhs.ssaadvocacy@state.mn.us](mailto:dhs.ssaadvocacy@state.mn.us). *Reimbursement for mileage* actually and necessarily incurred by GRANTEE’s performance of this contract shall be no greater amount than provided in the current Commissioner’s Plan (which is incorporated by reference) promulgated by the Commissioner of Minnesota Management and Budget. GRANTEE shall not be reimbursed for

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<sup>1</sup> The World Trade Organization Government Procurement Agreement of 1996 (WTO-GPA), signed by the United States and 27 other countries, is designed to open up as much business as possible to international competition. To that end, the member nations have agreed that they and their sub-central governments (states, provinces, prefectures, departments) will not discriminate against foreign products or suppliers of services when those products or services exceed an agreed upon threshold amount, which is currently \$558,000. In the case of this RFP, a contract would have to exceed the threshold amount (\$558,000) in order to be subject to the WTO-GPA requirement.

mileage incurred outside the State of Minnesota unless it has received prior written approval for such out of state travel from the STATE. Reimbursement for mileage must be submitted on forms as prescribed by the STATE.

- d. For medical records fees incurred in collecting evidence, STATE shall pay GRANTEE up to fifty dollars **(\$50)** per claim (receipts required).
- e. For each client whom GRANTEE’s services resulted in a denied outcome at a reconsideration and a referral was completed through a warm hand off to a STATE-contracted SSB advocacy or SOAR agency, STATE shall pay GRANTEE two hundred fifty dollars **(\$250)** if the agency agrees to represent the client at an appeal hearing (from either an Administrative Law Judge hearing, Appeals Council, or Federal Court). GRANTEE will notify STATE of the referral by sending an email to [dhs.ssaadvocacy@state.mn.us](mailto:dhs.ssaadvocacy@state.mn.us).
- f. For each client whom GRANTEE provides representation at the Administrative Law Judge hearing with a complete Medical Summary Report and a successful outcome is achieved, STATE shall pay GRANTEE two thousand five hundred fifty dollars **(\$2,550)**.
- g. For each client whom GRANTEE provides representation at the Administrative Law Judge hearing with a complete Medical Summary Report and a denied outcome is achieved, STATE shall pay GRANTEE one thousand dollars **(\$1,000)**.
- h. For each client whom GRANTEE provides assistance to maintain or prevent termination of Social Security disability benefits and a successful outcome is achieved, STATE shall pay GRANTEE seven hundred fifty dollars **(\$750)**.
- i. For each client whom GRANTEE provides representation at the Administrative Law Judge hearing to maintain or prevent termination of Social Security disability benefits and a successful outcome is achieved, STATE shall pay GRANTEE two thousand five hundred fifty dollars **(\$2,550)**.
- j. For each child whom GRANTEE’s services are solely responsible for maximizing and obtaining auxiliary benefits under the parent’s approved claim and receive a successful outcome, STATE shall pay GRANTEE fifty dollars **(\$50)** per child.
- k. Summary of Payment Rates for SOAR Advocacy

Service	Payment
Initial application or reconsideration filed along with a Medical Summary Report	\$750
Application approved by SSA at Initial Application or Reconsideration level with a Medical Summary Report	\$1,800

Service	Payment
Mileage incurred for application assistance, assessments and consultative exams (60-100 miles round trip only, mileage over 100 miles requires prior authorization by DHS)	Current IRS mileage reimbursement rate
Medical records reimbursement (receipts required)	Up to \$50
Administrative Law Judge (ALJ) hearing “warm hand off” from a SOAR Advocate to an SSB advocacy provider	\$250
Application approved at ALJ hearing level with a Medical Summary Report	\$2,550
Application denied at the ALJ hearing level with a Medical Summary Report	\$1,000
Maintain Social Security disability benefits approval	\$750
Maintain Social Security disability benefits approved at ALJ hearing	\$2,550
Maximize benefits for children under a parent(s) approved RSDI claim	\$50 per child

**(b.) Withholdings.** For compensation payable under this grant contract, which is subject to withholding under state or federal law, appropriate amounts will be deducted and withheld by the State as required.

### 3.2. Terms of Payment

#### (a.) General Terms.

1. **SSA Form.** To receive payment, GRANTEE must submit the SSA-1696 to the STATE within ninety (90) days of GRANTEE’s decision to accept a client with the following fee arrangement selected: “I am waiving fees and expenses from the claimant and any auxiliary beneficiaries,” and must receive no other payment from any other source.
2. **Requirements.** STATE shall pay GRANTEE under this agreement: after STATE verifies client eligibility for payment, after STATE determines GRANTEE satisfactory performed the duties identified in clause 2.2 (a)-(q), and only for clients whom a decision (either a successful outcome or a denied outcome) is obtained. “Successful outcome” means the client becomes eligible for and receives at least one dollar (\$1.00) of Social Security disability benefits; “denied outcome” means the client is denied by the SSA for Social Security disability benefits.
3. **Service Limits.** STATE reserves the right to limit service by assigning units of service (“slots”) or by otherwise limiting services to clients as funds are depleted.

**(b.) Invoices.** Payments shall be made by the STATE promptly after GRANTEE submits invoices for services performed and acceptance of such services by the STATE's authorized agent pursuant to Clause 7. Invoices shall be submitted on forms prescribed by the STATE and according to the following:

1. The GRANTEE must email paper invoices for SOAR clients to [dhs.ssaadvocacy@state.mn.us](mailto:dhs.ssaadvocacy@state.mn.us). GRANTEE will include documents identified in clause 2.2(P) with each invoice.
2. Payment will be made by STATE after the invoice is received and placement on Social Security benefits verified. If additional information is needed to pay the invoice, an email will be sent to GRANTEE requesting the information. This may result in a delay in payment.
3. Payment shall be made by STATE within thirty (30) days after GRANTEE has submitted invoices for services performed to STATE.
4. Invoices submitted to STATE more than twelve (12) months after the client's placement on Social Security disability benefits will not be paid.
5. GRANTEE will electronically submit invoices into the SSBA Provider Payment System when it is implemented by STATE (expected in 2018).
6. Compensation by STATE is final and in lieu of GRANTEE seeking compensation through SSA or from the client. If GRANTEE seeks or receives compensation from both STATE and SSA for the same client (i) GRANTEE will be in violation of federal SSA rules, (ii) GRANTEE will be in breach of contract with STATE, (iii) STATE can terminate GRANTEE's contract and report them to SSA, and (iv) STATE can seek recoupment of relevant fees or other legal remedies.

**(c.)** As governed by clause 3.2(a)1, the GRANTEE will not seek payment from any other source at any point in time for clients for whom the GRANTEE receives payment from the STATE. If the GRANTEE seeks payment from any other source at any point in time for clients for whom the GRANTEE receives payment from the STATE, it will be considered a breach of contract and may result in contract termination, STATE's recoupment of relevant fees or other legal remedies.

**(d.)** See clause 6.4 for the effect on compensation resulting from contract cancellation, termination or expiration for any reason.

**(e.)** GRANTEE's Data Universal Numbering System (DUNS) number is **DUNS NUMBER**. The Data Universal Numbering System (DUNS) number is the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities.

**4. CONDITIONS OF PAYMENT.** All services provided by GRANTEE pursuant to this grant contract shall be performed to the satisfaction of the STATE, as determined at the sole discretion of its authorized representative, and in accord with all applicable federal, state, and local laws, ordinances, rules and regulations including business registration requirements of the Office of the Secretary of State.

GRANTEE shall not receive payment for work found by the STATE to be unsatisfactory, or performed in violation of federal, state or local law, ordinance, rule or regulation.

**5. PAYMENT RECOUPMENT.** The GRANTEE must reimburse the STATE upon demand or the STATE may deduct from future payments under this grant any amounts paid by the STATE, under this or any previous grant, for which invoices have not been received, or for which the GRANTEE'S books, records, or other documents are not sufficient to clearly substantiate services performed by the GRANTEE.

## **6. CANCELLATION, TERMINATION, OR EXPIRATION.**

**6.1. For Cause or Convenience.** This grant contract may be canceled by the STATE or GRANTEE at any time, with or without cause, upon thirty (30) days written notice to the other party. In the event of such a cancellation, GRANTEE shall be entitled to payment as set forth in clause 6.4. The STATE has the right to suspend or terminate this grant contract immediately when the STATE deems the health or welfare of the service recipients is endangered, when the STATE has reasonable cause to believe that the GRANTEE has breached a material term of the grant contract, or when GRANTEE'S non-compliance with the terms of the grant contract may jeopardize federal financial participation.

**6.2. Insufficient Funds.** The STATE may immediately terminate this grant contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination will be by written or fax notice to the GRANTEE. The STATE will not be assessed any penalty if the grant contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The STATE must provide the GRANTEE notice of the lack of funding within a reasonable time of the STATE receiving that notice.

**6.3. Breach.** Notwithstanding clause 6.1., upon STATE's knowledge of a curable material breach of the grant contract by GRANTEE, STATE shall provide GRANTEE written notice of the breach and ten (10) days to cure the breach. If GRANTEE does not cure the breach within the time allowed, GRANTEE will be in default of this grant contract and STATE may cancel the grant contract immediately thereafter. If GRANTEE has breached a material term of this grant contract and cure is not possible, STATE may immediately terminate this grant contract.

**6.4. Effect on Compensation Based Upon Contract Cancellation, Termination, or Expiration For Any Reason.** Whenever the contract is cancelled, terminated or expires, GRANTEE will be compensated only when client information has been:

1. Has a decision from SSA (a "successful" or "denied" outcome as defined by clause 3.2(a)2, and
2. Entered into the Social Security Benefits Advocacy (SSBA) Provider Payment System and an invoice is electronically submitted or a completed SOAR Data and Invoice Form and medical summary report has been completed and emailed to [dhs.ssaadvocacy@state.mn.us](mailto:dhs.ssaadvocacy@state.mn.us), and

3. A valid SSA-1696 has been uploaded to the SSBA Provider Payment System or emailed to [dhs.ssaadvocacy@state.mn.us](mailto:dhs.ssaadvocacy@state.mn.us).

The STATE will verify that before the termination date of the contract a valid SSA-1696 was uploaded or emailed to [dhs.ssaadvocacy@state.mn.us](mailto:dhs.ssaadvocacy@state.mn.us); and that a case was entered into the SSBA Provider Payment System for each client served or a completed SOAR Data and Invoice Form was emailed to [dhs.ssaadvocacy@state.mn.us](mailto:dhs.ssaadvocacy@state.mn.us). Payment will be made after SSA made a decision on the case.

However, compensation for this work will be at the appropriate payment rate as stated in the contract. GRANTEE will not be compensated for any work performed or submitted after the date of the notice of cancellation or termination. When the contract is terminated under section 6.1 for cause or convenience, GRANTEE will not be compensated for any work performed or submitted during the thirty (30) day period before the contract cancellation or termination is effective. Notice of Termination will be hand-delivered or sent via U.S. certified, return receipt mail.

**6.5. Conviction Relating to a State Grant.** In compliance with Minn. Stat. § 16B.991 (2017), this agreement will immediately be terminated if the recipient is convicted of a criminal offense relating to a state grant agreement.

## **7. AUTHORIZED REPRESENTATIVES, RESPONSIBLE AUTHORITY, and PROJECT MANAGER.**

**7.1. State.** The STATE'S authorized representative for the purposes of administration of this grant contract is Jill Hillebregt, [jill.m.hillebregt@state.mn.us](mailto:jill.m.hillebregt@state.mn.us), 651-431-5799 or her successor. Such representative shall have final authority for acceptance of GRANTEE'S services and if such services are accepted as satisfactory, shall so certify on each invoice submitted pursuant to Clause 3.2.

**7.2. Grantee.** The GRANTEE'S Authorized Representative is «First» «Last», «Email», «Phone\_» or his/her successor. If the GRANTEE'S Authorized Representative changes at any time during this grant contract, the GRANTEE must immediately notify the STATE.

**7.3. Information Privacy and Security.** GRANTEE'S responsible authority for the purposes of complying with data privacy and security for this grant contract is «First» «Last», «Email», «Phone\_» or his/her successor.

**7.4. Project Manager.** The STATE'S project manager for this grant contract is Dawn Holmen, [dawn.holmen@state.mn.us](mailto:dawn.holmen@state.mn.us), 651-431-6314 or her successor.

**8. ASSIGNMENT.** GRANTEE shall neither assign nor transfer any rights or obligations under this grant contract without the prior written consent of the STATE.

**9. AMENDMENTS.** Any amendments to this grant contract shall be in writing, and shall be executed by the same parties who executed the original grant contract, or their successors in office.

**10. INDEMNIFICATION.** In the performance of this grant contract by GRANTEE, or GRANTEE's agents or employees, the GRANTEE must indemnify, save, and hold harmless the STATE, its agents, and employees, from any claims or causes of action, including attorney's fees incurred by the STATE, to the extent caused by GRANTEE's: 1) Intentional, willful, or negligent acts or omissions; or 2) Actions that give rise to strict liability; or 3) Breach of contract or warranty. The indemnification obligations of this clause do not apply in the event the claim or cause of action is the result of the STATE's sole negligence. This clause will not be construed to bar any legal remedies the GRANTEE may have for the STATE's failure to fulfill its obligation under this grant contract.

**11. STATE AUDITS.** Under Minnesota Statutes, section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices of the GRANTEE and its employees, agents, or subcontractors relevant to this grant contract shall be made available and subject to examination by the STATE, including the contracting Agency/Division, Legislative Auditor, and State Auditor for a minimum of six years from the end of this grant contract.

## **12. INFORMATION PRIVACY AND SECURITY.**

**12.1.** Information privacy and security shall be governed by the "Data Sharing Agreement Terms and Conditions", which is attached and incorporated into this Contract as Attachment A, except that the parties further agree to comply with any agreed-upon amendments to the Data Sharing Agreement.

**12.2.** As part of complying with the "Data Sharing Agreement Terms and Conditions," GRANTEE will access STATE protected data only after directly receiving a request for its services from a prospective client, and directly receiving permission from the prospective client to access the client's protected data. GRANTEE is not permitted to access STATE protected data before receiving such a request and permission, and is not permitted to access for any other reason other than providing benefits application assistance. GRANTEE is specifically prohibited from accessing STATE protected data in order to search for potential clients.

## **13. Intellectual Property Rights.**

**13.1. Definitions.** Works means all inventions, improvements, discoveries (whether or not patentable or copyrightable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the GRANTEE, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this grant contract. Works includes "Documents". Documents are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the GRANTEE, its employees, agents, or subcontractors, in the performance of this grant contract.

**13.2. Use of Works and Documents.** GRANTEE owns any Works or Documents developed by the GRANTEE in the performance of this grant contract. The STATE and the U.S. Department of Health and Human Services will have royalty free, non-exclusive, perpetual and irrevocable right to reproduce,

publish, or otherwise use, and to authorize others to use, the Works or Documents for government purposes.

**14. PUBLICITY.** Any publicity given to the program, publications, or services provided resulting from this grant contract, including but not limited to, notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the GRANTEE or its employees individually or jointly with others or any subcontractors, shall identify the STATE as the sponsoring agency and shall not be released, unless such release is a specific part of an approved work plan included in this grant contract prior to its approval by the State's Authorized Representative.

## **15. HUMAN RIGHTS COMPLIANCE.**

**15.1. Affirmative Action requirements for Grantees with more than 40 full-time employees and a contract in excess of \$100,000.** If GRANTEE has had more than 40 full-time employees within the State of Minnesota on a single working day during the previous twelve months preceding the date GRANTEE submitted its response to the STATE, it must have an affirmative action plan, approved by the Commissioner of Human Rights of the State of Minnesota, for the employment of qualified minority persons, women and persons with disabilities. See Minnesota Statutes, section 363A.36. If GRANTEE has had more than 40 full-time employees on a single working day during the previous twelve months in the state in which it has its primary place of business, then GRANTEE must either: 1) have a current Minnesota certificate of compliance issued by the Minnesota Commissioner of Human Rights; or 2) certify that it is in compliance with federal Affirmative Action requirements.

**(a.) Affirmative Action and Non-Discrimination requirements for all Grantees.** The GRANTEE agrees not to discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, marital status, status in regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age in regard to any position for which the employee or applicant for employment is qualified. Minnesota Statutes, section 363A.02. GRANTEE agrees to take affirmative steps to employ, advance in employment, upgrade, train, and recruit minority persons, women, and persons with disabilities.

The GRANTEE must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The GRANTEE agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Minnesota Rules, part 5000.3550

GRANTEE agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

**(b.) Notification to employees and other affected parties.** The GRANTEE agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices will state the rights of applicants and employees, and GRANTEE's obligation under the law to take affirmative action to employ and advance in employment qualified minority persons, women, and persons with disabilities.

The GRANTEE will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the GRANTEE is bound by the terms of Minnesota Statutes, section 363A.36 of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment minority persons, women, and persons with physical and mental disabilities.

**(c.) Compliance with Department of Human Rights Statutes.** In the event of GRANTEE's noncompliance with the provisions of this clause, actions for noncompliance may be taken in accordance with Minnesota Statutes, section 363A.36, and the rules and relevant orders issued pursuant to the Minnesota Human Rights Act.

## **15.2 Equal Pay Certificate.**

**(a.) Scope.** Pursuant to Minnesota Statutes, section 363A.44, STATE shall not execute a contract for goods or services or an agreement for goods or services in excess of \$500,000 with a business that has forty (40) or more full-time employees in the State of Minnesota or a state where the business has its primary place of business on a single day during the prior twelve (12) months, unless the business has an equal pay certificate or it has certified in writing that it is exempt.

This section does not apply to a business, with respect to a specific contract, if the commissioner of administration determines that the requirements of this Section would cause undue hardship on the business. This Section does not apply to a contract to provide goods or services to individuals under Minnesota Statutes, chapters 43A, 62A, 62C, 62D, 62E, 256B, 256I, 256L, and 268A, with a business that has a license, certification, registration, provider agreement, or provider enrollment contract that is a prerequisite to providing those good or services.

**(b.) Consequences.** If GRANTEE fails to obtain an equal pay certificate as required by Minnesota Statutes, section 363A.44 or is not in compliance with the laws identified in section 363A.44, the Minnesota Department of Human Rights (MDHR) may void this Contract on behalf of the State, and this Contract may be immediately terminated by STATE upon notice that the MDHR has suspended or revoked GRANTEE'S equal pay certificate.

**(c.) Certification.** The GRANTEE hereby certifies that it has a current equal pay certificate approved by the MDHR, that it is in compliance with the laws identified in Minnesota Statutes, section 363A.44, and is aware of the consequences for noncompliance.

## **16. INSURANCE REQUIREMENTS.**

**16.1** GRANTEE shall not commence work under the contract until they have obtained all the insurance described below and the STATE has approved such insurance. All policies and certificates shall provide that the policies shall remain in force and effect throughout the term of the grant contract.

**16.2** GRANTEE is required to maintain and furnish satisfactory evidence of the following insurance policies:

**(a.) Workers' Compensation.** Except as provided below, GRANTEE must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, GRANTEE will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the STATE of Minnesota, including Coverage B, Employer's Liability. Insurance minimum amounts are as follows:

\$100,000 – Bodily Injury by Disease per employee  
\$500,000 – Bodily Injury by Disease aggregate  
\$100,000 – Bodily Injury by Accident

If Minnesota Statute, section 176.041 exempts GRANTEE from Workers' Compensation insurance or if the GRANTEE has no employees in the STATE of Minnesota, GRANTEE must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes GRANTEE from the Minnesota Workers' Compensation requirements.

If during the course of the grant contract the GRANTEE becomes eligible for Workers' Compensation, the GRANTEE must comply with the Workers' Compensation Insurance requirements herein and provide the STATE a certificate of insurance

**(b.) Commercial General Liability.** GRANTEE is required to maintain insurance protecting it from damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the grant contract whether the operations are by the GRANTEE or by a subcontractor or by anyone directly or indirectly employed by the GRANTEE under the grant contract. Insurance minimum amounts are as follows:

\$2,000,000 – per occurrence  
\$2,000,000 – annual aggregate  
\$2,000,000 – annual aggregate – Products/Completed Operations

The following coverages shall be included:

Premises and Operations Bodily Injury and Property Damage  
Personal and Advertising Injury  
Blanket Contractual Liability  
Products and Completed Operations Liability

Other; if applicable. Please list N/A.

STATE of Minnesota named as an Additional Insured, to the extent permitted by law.

**(c.) Commercial Automobile Liability.** GRANTEE is required to maintain insurance protecting the GRANTEE from claims for damages for bodily injury as well as from claims for property damage resulting from ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under this grant contract, and in case any work is subcontracted the GRANTEE will require the subcontractor to provide Commercial Automobile Liability. Insurance minimum amounts are as follows:

\$2,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverages should be included:

Owned, Hired, and Non-owned Automobile

**(d.) Professional/Technical, Errors and Omissions, and/or Miscellaneous Liability.** This policy will provide coverage for all claims the GRANTEE may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to GRANTEE's professional services required under the grant contract.

GRANTEE is required to carry the following minimum amounts:

\$2,000,000 – per claim or event

\$2,000,000 – annual aggregate

Any deductible will be the sole responsibility of the GRANTEE and may not exceed \$50,000 without the written approval of the STATE. If the GRANTEE desires authority from the STATE to have a deductible in a higher amount, the GRANTEE shall so request in writing, specifying the amount of the desired deductible and providing financial documentation by submitting the most current audited financial statements so that the STATE can ascertain the ability of the GRANTEE to cover the deductible from its own resources.

### **16.3 Additional Insurance Conditions.**

**(a.)** GRANTEE's policy(ies) shall be primary insurance to any other valid and collectible insurance available to the STATE of Minnesota with respect to any claim arising out of GRANTEE's performance under this grant contract;

**(b.)** If GRANTEE receives a cancellation notice from an insurance carrier affording coverage herein, GRANTEE agrees to notify the STATE of Minnesota within five (5) business days with a copy of the cancellation notice, unless GRANTEE's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to the STATE of Minnesota;

**(c.)** GRANTEE is responsible for payment of grant contract related insurance premiums and deductibles;

**(d.)** If GRANTEE is self-insured, a Certificate of Self-Insurance must be attached;

**(e.)** Include legal defense fees in addition to its liability policy limits, with the exception of VI.G.2.d above; and

**(f.)** Obtain insurance policies from an insurance company having an “AM BEST” rating of A- (minus); Financial Size Category (FSC) VII or better and must be authorized to do business in the STATE of Minnesota; and

**(g.)** An Umbrella or Excess Liability insurance policy may be used to supplement the GRANTEE’s policy limits to satisfy the full policy limits required by the grant contract.

**16.4** The STATE reserves the right to immediately terminate the grant contract if the GRANTEE is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the GRANTEE. All insurance policies must be open to inspection by the STATE, and copies of policies must be submitted to the STATE’s authorized representative upon written request.

**16.5** The GRANTEE is required to submit Certificates of Insurance acceptable to the STATE of Minnesota as evidence of insurance coverage requirements prior to commencing work under the grant contract.

**17. VOTER REGISTRATION REQUIREMENT.** GRANTEE certifies that it will comply with Minnesota Statutes, section 201.162 by providing voter registration services for its employees and for the public served by the GRANTEE.

**18. OWNERSHIP OF EQUIPMENT.** The STATE shall have the right to require transfer of all equipment purchased with grant funds (including title) to the STATE or to an eligible non-STATE party named by the STATE. This right will normally be exercised by the STATE only if the project or program for which the equipment was acquired is transferred from one grantee to another.

**19. FEDERAL AUDIT REQUIREMENTS AND GRANTEE DEBARMENT INFORMATION.** GRANTEE certifies it will comply with the Single Audit Act, and Code of Federal Regulations, title 2, subtitle A., chapter II, part 200, as applicable. All sub-recipients receiving \$750,000 or more of federal assistance in a fiscal year will obtain a financial and compliance audit made in accordance with the Single Audit Act, or Code of Federal Regulations, title 2, subtitle A, chapter II, part 200, as applicable. Failure to comply with these requirements could result in forfeiture of federal funds.

DEBARMENT BY STATE, ITS DEPARTMENTS, COMMISSIONS, AGENCIES OR POLITICAL SUBDIVISIONS

GRANTEE certifies that neither it nor its principles is presently debarred or suspended by the STATE, or any of its departments, commissions, agencies, or political subdivisions. GRANTEE’s certification is a material representation upon which the grant contract award was based. GRANTEE shall provide immediate written notice to the STATE’s authorized representative if at any time it learns that this

certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.

#### CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION

Federal money will be used or may potentially be used to pay for all or part of the work under the grant contract, therefore GRANTEE certifies that it is in compliance with federal requirements on debarment, suspension, ineligibility and voluntary exclusion specified in the solicitation document implementing Executive Order 12549. GRANTEE's certification is a material representation upon which the grant contract award was based.

**20. JURISDICTION AND VENUE.** This grant contract, amendments, and supplements thereto, shall be governed by the laws of the State of Minnesota. Venue for all legal proceedings arising out of this grant contract, or breach thereof, shall be in the state or federal court with competent jurisdiction in Ramsey County, Minnesota.

**21. WAIVER.** If the STATE fails to enforce any provision of this grant contract, that failure does not waive the provision or the STATE's right to enforce it.

**22. CONTRACT COMPLETE.** This grant contract contains all negotiations and agreements between the STATE and the GRANTEE. No other understanding regarding this grant contract, whether written or oral may be used to bind either party.

#### **23. OTHER PROVISIONS.**

**23.1.** GRANTEE agrees that no religious based counseling shall take place under the auspices of this grant contract.

**23.2.** If the GRANTEE has an independent audit, a copy of the audit shall be submitted to the STATE.

**23.3. Payment to Subcontractors (If applicable).** As required by Minnesota Statutes, section 16A.1245, the prime GRANTEE must pay all subcontractors, less any retainage, within ten (10) calendar days of the prime GRANTEE's receipt of payment from the State for undisputed services provided by the subcontractor(s) and must pay interest at the rate of one and one-half percent per month or any part of a month to the subcontractor(s) on any undisputed amount not paid on time to the subcontractor(s).

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**Signature Page Follows**

IN WITNESS WHEREOF, the parties have caused this grant contract to be duly executed intending to be bound thereby.

APPROVED

1. STATE ENCUMBRANCE VERIFICATION

*Individual certifies that funds have been encumbered as required by Minnesota Statutes, chapter 16A and section 16C.05.*

By: \_\_\_\_\_

Date: \_\_\_\_\_

Grant No: \_\_\_\_\_

3. STATE AGENCY

By (with delegated authority): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

2. GRANTEE

*Signatory is authorized by applicable articles, by-laws, resolutions, or ordinances to sign on behalf of the Grantee.*

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Distribution:

Agency - Original (fully executed) contract

Grantee

State Authorized Representative

*I certify that the signatories for the Grantee have lawful authority, by virtue of the corporate by-laws or a corporate resolution, to bind the Grantee to the terms of this grant contract.*

(Attorney for Grantee)

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# **ATTACHMENT A – DATA SHARING AND BUSINESS ASSOCIATE AGREEMENT TERMS AND CONDITIONS**

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This Attachment sets forth the terms and conditions in which STATE and GRANTEE will share data with each other and permit GRANTEE to use or disclose Protected Information that the parties are legally required to safeguard pursuant to the Minnesota Data Practices Act under Minnesota Statutes, chapter 13, the Health Insurance Portability and Accountability Act rules and regulations codified at 45 C.F.R. Parts 160, 162, and 164 (“HIPAA”) and other applicable laws.

The parties agree to comply with all applicable provisions of the Minnesota Data Practices Act, HIPAA, and any other state and federal statutes that apply to the Protected Information.

General Description of Protected Information That Will Be Shared: client name, social security number, date of birth, address, phone numbers, veteran status, Person Master Index (PMI), homeless status, facility name, social security application data, diagnosis, medical summary reviews, medical records, and public assistance benefits.

Purpose for Sharing Protected Information and Expected Outcomes: 1) STATE and GRANTEE are able to coordinate efforts to assist individuals applying for Social Security disability benefits to ensure the individuals are maximizing benefits by applying for all eligible programs; 2) STATE can provide technical assistance on Social Security applications, medical summary reviews, and answer client specific questions on cases; 3) STATE needs to verify protected information before payment can be made to GRANTEE for duties performed under the contract; 4) Information is used to analyze data and review records to monitor quality and effectiveness of the Social Security Benefits advocacy program.

STATE is permitted to share the Protected Information with GRANTEE pursuant to: Minnesota Statutes, 13.46, subdivision. 2(a)(6) to provide advocacy and support services to process claims for federal disability benefits for applicants or recipients of services or benefits supervised by STATE.

It is expressly agreed that GRANTEE is a “business associate” of STATE, as defined by HIPAA under 45 C.F.R. § 160.103. The disclosure of protected health information to GRANTEE that is subject to the Health Insurance Portability Accountability Act (HIPAA) is permitted by 45 C.F.R. § 164.502(e)(1)(i).

## **DEFINITIONS**

- A. "Agent" means GRANTEE'S employees, contractors, subcontractors, and other non-employees and representatives.
- B. "Applicable Safeguards" means the state and federal provisions listed in Section 2.1 of this Attachment.
- C. "Breach" means the acquisition, access, use, or disclosure of unsecured protected health information in a manner not permitted by HIPAA, which compromises the security or privacy of protected health information.
- D. "Business associate" shall generally have the same meaning as the term “business associate” at

45 C.F.R. § 160.103, and in reference to the party in the Contract and this Attachment, shall mean GRANTEE.

- E. "Contract" means the Professional/Technical Contract between STATE and GRANTEE identified as «Contract».
- F. "Disclosure" means the release, transfer, provision of access to, or divulging in any manner of information by the entity in possession of the Protected Information.
- G. "HIPAA" means the rules and regulations codified at 45 C.F.R. Parts 160, 162, and 164.
- H. "Individual" means the person who is the subject of protected information.
- I. "Privacy incident" means a violation of an information privacy provision of any applicable state and federal law, statute, regulation, rule, or standard, including those listed in the Contract and this Attachment.
- J. "Protected information" means any information that is or will be used by STATE or GRANTEE under the Contract that is protected by federal or state privacy laws, statutes, regulations or standards, including those listed in this Attachment. This includes, but is not limited to, individually identifiable information about a State, county or tribal human services agency client or a client's family member. Protected information also includes, but is not limited to, protected health information, as defined below, and protected information maintained within or accessed via a State information management system, including a State "legacy system" and other State application.
- K. "Protected health information" is a subset of "individually identifiable health information" in accordance with 45 C.F.R. § 160.103, but for purposes of this Attachment refers only to that information that is received, created, maintained, or transmitted by GRANTEE as a business associate on behalf of DHS. Protected health information is a specific subset of protected information as defined above.
- L. "Security incident" means the attempted or successful unauthorized use or the interference with system operations in an information management system or application. Security incident does not include pings and other broadcast attacks on a system's firewall, port scans, unsuccessful log-on attempts, denials of service, and any combination of the above, provided that such activities do not result in the unauthorized use of Protected Information.
- M. "Use" or "used" means any activity by the parties during the duration of the Contract involving protected information including its creation, collection, access, use, modification, employment, application, utilization, examination, analysis, manipulation, maintenance, dissemination, sharing, disclosure, transmission, or destruction. Use includes any of these activities whether conducted manually or by electronic or computerized means.
- N. "User" means an agent of either party, who has been authorized to use protected information.

## 1. INFORMATION EXCHANGED

- 1.1 This Attachment governs the data that will be exchanged pursuant to GRANTEE performing the services described in the Contract. The data exchanged under the Contract will include the information needed to apply for social security benefits which include but not limited to client demographics, public assistance programs, medical summary reports, date of birth, client name, PMI number, social security application information and Social Security numbers.
- 1.2 The data exchanges under the Contract is provided to GRANTEE in order for GRANTEE to assist persons (clients) apply for Social Security benefits, analyze data, determine program effectiveness and provide technical assistance.
- 1.3 STATE is permitted to share the Protected Information with GRANTEE pursuant to Minnesota Statutes, section 13.46, subdivision 2(a)(6).

## 2. INFORMATION PRIVACY AND SECURITY

GRANTEE and STATE must comply with the Minnesota Government Data Practices Act, Minn. Stat. § 13, and the Health Insurance Portability Accountability Act ["HIPAA"], 45 C.F.R. § 164.103, et seq., as it applies to all data provided by STATE under the Contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by GRANTEE under the Contract. The civil remedies of Minn. Stat. § 13.08 apply to GRANTEE and STATE. Additionally, the remedies of HIPAA apply to the release of data governed by that Act.

### 2.1 Compliance with Applicable Safeguards.

- A. **State and Federal Safeguards.** The parties acknowledge that the Protected Information to be shared under the terms of the Contract may be subject to one of the following laws, statutes, regulations, rules, and standards, as applicable ("Applicable Safeguards"). The parties agree to comply with all rules, regulations and laws, including as amended or revised, applicable to the exchange, use and disclosure of data under the Contract.
  1. Health Insurance Portability and Accountability Act rules and regulations codified at 45 C.F.R. Parts 160, 162, and 164 ("HIPAA");
  2. Minnesota Government Data Practices Act (Minn. Stat. Chapter 13);
  3. Minnesota Health Records Act (Minn. Stat. §144.291 - 144.298);
  4. Confidentiality of Alcohol and Drug Abuse Patient Records (42 U.S.C. § 290dd-2 and 42 C.F.R. § 2.1 to §2.67);
  5. Tax Information Security Guidelines for Federal, State and Local Agencies (26 U.S.C. 6103 and Publication 1075);
  6. U.S. Privacy Act of 1974;
  7. Computer Matching Requirements (5 U.S.C. 552a);
  8. Social Security Data Disclosure (section 1106 of the Social Security Act);
  9. Disclosure of Information to Federal, State and Local Agencies (DIFSLA Handbook" Publication 3373);
  10. Final Exchange Privacy Rule of the Affordable Care Act (45 C.F.R. § 155.260); and
  11. NIST Special Publication 800-53, Revision 4 (NIST.SP.800-53r4).
- B. **Statutory Amendments and Other Changes to Applicable Safeguards.**

The Parties agree to take such action as is necessary to amend the Contract and this Attachment from time to time as is necessary to ensure, current, ongoing compliance with the requirements of the laws listed in this Section or in any other applicable law.

## 2.2 GRANTEE Data Responsibilities

### A. Use Limitation.

1. *Restrictions on Use and Disclosure of Protected Information.* Except as otherwise authorized in the Contract or this Attachment, GRANTEE may only use or disclose Protected Information as necessary to provide the services to STATE as described herein, or as otherwise required by law, provided that such use or disclosure of Protected Information, if performed by STATE, would not violate the Contract, this Attachment, HIPAA, or other state and federal statutes or regulations that apply to the Protected Information.
2. *Federal tax information.* To the extent that Protected Information used under the Contract constitutes "federal tax information" (FTI), GRANTEE shall ensure that this data only be used as authorized under the Patient Protection and Affordable Care Act, the Internal Revenue Code, 26 U.S.C. § 6103(C), and IRS Publication 1075.

### B. Individual Privacy Rights. GRANTEE shall ensure individuals are able to exercise their privacy rights regarding Protected Information, including but not limited to the following:

1. *Complaints.* GRANTEE shall work cooperatively with STATE to resolve complaints received from an individual; from an authorized representative; or from a state, federal, or other health oversight agency.
2. *Amendments to Protected Information Requested by Data Subject Generally.* Within ten (10) business days, GRANTEE must forward to STATE any request to make any amendment(s) to Protected Information in order for STATE to satisfy its obligations under Minn. Stat. § 13.04, subdivision 4. If the request to amend Protected Information pertains to Protected Health Information, then GRANTEE must also make any amendment(s) to protected health information as directed or agreed to by STATE pursuant to 45 C.F.R. § 164.526 or otherwise act as necessary to satisfy STATE or GRANTEE's obligations under 45 C.F.R. § 164.526 (including, as applicable, protected health information in a designated record set).

### C. Ongoing Responsibilities to Safeguard Protected Information.

1. *Privacy and Security Policies.* GRANTEE shall develop, maintain, and enforce policies, procedures, and administrative, technical, and physical safeguards to ensure the privacy and security of the Protected Information.
2. *Electronic Protected Information.* GRANTEE shall implement and maintain appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 (HIPAA Security Rule) with respect to electronic Protected Information, including electronic Protected Health Information, to prevent the use or disclosure other than as provided for by the Contract or this Attachment.

3. *Monitoring Agents.* GRANTEE shall ensure that any contractor, subcontractor, or other agent to whom GRANTEE discloses Protected Information on behalf of STATE, or whom GRANTEE employs or retains to create, receive, use, store, disclose, or transmit Protected Information on behalf of STATE, agrees to the same restrictions and conditions that apply to GRANTEE under the Contract and this Attachment with respect to such Protected Information, and in accordance with 45 C.F.R. §§ 164.502(e)(1)(ii) and 164.308(b)(2).
4. *Minimum Necessary Access to Protected Information.* GRANTEE shall ensure that its Agents use only the minimum necessary Protected Information needed to complete an authorized and legally permitted activity.
5. *Training.* GRANTEE shall ensure that Agents are properly trained and comply with all Applicable Safeguards and the terms of the Contract and this Attachment.

**D. Responding to Privacy Incidents, Security Incidents, and Breaches.** GRANTEE will comply with this Section for all protected information shared under the Contract. Additional obligations for specific kinds of protected information shared under the Contract are addressed in Section 2.2(F).

1. *Mitigation of harmful effects.* Upon discovery of any actual or suspected privacy incident, security incident, or breach, GRANTEE will mitigate, to the extent practicable, any harmful effect of the privacy incident, security incident, or breach. Mitigation may include, but is not limited to, notifying and providing credit monitoring to affected individuals.
2. *Investigation.* Upon discovery of any actual or suspected privacy incident, security incident, or breach, GRANTEE will investigate to (1) determine the root cause of the incident, (2) identify individuals affected, (3) determine the specific protected information impacted, and (4) comply with notification and reporting provisions of the Contract, this Attachment and applicable law.
3. *Corrective action.* Upon identifying the root cause of any privacy incident, security incident, or breach, GRANTEE will take corrective action to prevent, or reduce to the extent practicable, any possibility of recurrence. Corrective action may include, but is not limited to, patching information system security vulnerabilities, employee sanctions, or revising policies and procedures.
4. *Notification to individuals and others; costs incurred.*
  - a. **Protected Information.** GRANTEE will determine whether notice to data subjects and/or any other external parties regarding any privacy incident or security incident is required by law. If such notice is required, GRANTEE will comply with STATE's and GRANTEE's obligations under any applicable law requiring notification, including, but not limited to, Minn. Stat. §§ 13.05 and 13.055.

- b. **Protected Health Information.** If a privacy incident or security incident results in a breach of protected health information, as these terms are defined in this Attachment, then GRANTEE will provide notice to individual data subjects under any applicable law requiring notification, including but not limited to providing notice as outlined in 45 C.F.R. § 164.404.
- c. **Failure to notify.** If GRANTEE fails to notify individual data subjects or other external parties under subparagraphs (a) and (b), then GRANTEE will reimburse STATE for any costs incurred as a result of GRANTEE's failure to provide notification.

5. *Obligation to report to STATE.* Upon discovery of a privacy incident, security incident, or breach, GRANTEE will report to STATE in writing as specified in Section 2.2(F).

- a. **Communication with authorized representative.** GRANTEE will send any written reports to, and communicate and coordinate as necessary with, STATE's authorized representative.
- b. **Cooperation of response.** GRANTEE will cooperate with requests and instructions received from STATE regarding activities related to investigation, containment, mitigation, and eradication of conditions that led to, or resulted from, the security incident, privacy incident, or breach.
- c. **Information to respond to inquiries about an investigation.** GRANTEE will, as soon as possible, but not later than forty-eight (48) hours after a request from STATE, provide STATE with any reports or information requested by STATE related to an investigation of a security incident, privacy incident, or breach.

6. *Documentation.* GRANTEE will document actions taken under paragraphs 1 through 5 of this Section, and provide such documentation to STATE upon request.

**E. Reporting Privacy Incidents, Security Incidents, and Breaches.** GRANTEE will comply with the reporting obligations of this Section as they apply to the kind of protected information involved. GRANTEE will also comply with Section 2.2(E) above in responding to any privacy incident, security incident, or breach.

- 1. *Federal Tax Information.* GRANTEE will report all actual or suspected unauthorized uses or disclosures of federal tax information (FTI). FTI is information protected by Tax Information Security Guidelines for Federal, State and Local Agencies (26 U.S.C. § 6103 and Publication 1075).
  - a. **Initial report.** GRANTEE will, in writing, immediately report all actual or suspected unauthorized uses or disclosures of FTI to STATE. GRANTEE will include in its initial report to STATE all information under Section 2.2(E) (1)-(4), of this Attachment that is available to GRANTEE at the time of the initial report.



- vi. Statement that GRANTEE has notified, or will notify, affected data subjects in accordance with 45 C.F.R. § 164.404.
  - b. **Security incidents resulting in a breach.** GRANTEE will report, in writing, any security incident that results in a breach, or suspected breach, of protected health information to STATE within five (5) business days of discovery, in accordance with 45 C.F.R § 164.314 and 45 C.F.R § 164.410.
  - c. **Security incidents that do not result in a breach.** GRANTEE will report all security incidents that do not result in a breach, but involve systems maintaining protected health Information created, received, maintained, or transmitted by GRANTEE or its Agents on behalf of STATE, to STATE on a monthly basis, in accordance with 45 C.F.R § 164.314.
  - d. **Other violations.** GRANTEE will report any other violation of an individual's privacy rights as it pertains to protected health information to STATE within five (5) business days of discovery. This includes, but is not limited to, violations of HIPAA data access or complaint provisions.
  - e. **Reporting to other external parties.** GRANTEE will report all breaches of protected health information to the federal Department of Health and Human Services, as specified under 45 C.F.R 164.408. If a breach of protected health information involves 500 or more individuals:
    - i. GRANTEE will immediately notify STATE.
    - ii. GRANTEE will report to the news media and federal Department of Health and Human Services in accordance with 45 C.F.R. §§ 164.406-408.
4. *Other Protected Information.* GRANTEE will report all other privacy incidents and security incidents to STATE.
- a. **Initial report.** GRANTEE will report all other privacy and security incidents to STATE, in writing, within five (5) days of discovery. If GRANTEE is unable to complete its investigation of, and response to, a privacy incident or security incident within five (5) days of discovery, then GRANTEE will provide STATE with all information under Section 2.2(E)(1)-(4), of this Attachment that are available to GRANTEE at the time of the initial report.
  - b. **Final report.** GRANTEE will, upon completion of its investigation of and response to a privacy incident or security incident, or upon STATE's request in accordance with Section 2.2(E)(5) submit in writing a report to STATE documenting all actions taken under Section 2.2(E)(1)-(4), of this Attachment.

**F. Designated Record Set—Protected Health Information.** If, on behalf of STATE, GRANTEE maintains a complete or partial designated record set, as defined in 45 C.F.R. § 164.501, upon request by STATE, GRANTEE shall:

1. Provide the means for an individual to access, inspect, or receive copies of the individual's Protected Health Information.
2. Provide the means for an individual to make an amendment to the individual's Protected Health Information.
3. Provide the means for access and amendment in the time and manner that complies with HIPAA or as otherwise directed by STATE.

**G. Access to Books and Records, Security Audits, and Remediation.** GRANTEE shall conduct and submit to audits and necessary remediation as required by this Section to ensure compliance with all Applicable Safeguards and the terms of the Contract and this Attachment.

1. GRANTEE represents that it has audited and will continue to regularly audit the security of the systems and processes used to provide services under the Contract and this Attachment, including, as applicable, all data centers and cloud computing or hosting services under contract with GRANTEE. GRANTEE will conduct such audits in a manner sufficient to ensure compliance with the security standards referenced in this Attachment.
2. This security audit required above will be documented in a written audit report which will, to the extent permitted by applicable law, be deemed confidential security information and not public data under the Minnesota Government Data Practices Act, Minn. Stat. § 13.37, subdivision 1(a) and 2(a).
3. GRANTEE agrees to make its internal practices, books, and records related to its obligations under the Contract and this Attachment available to STATE or a STATE designee upon STATE's request for purposes of conducting a financial or security audit, investigation, or assessment, or to determine GRANTEE's or STATE's compliance with Applicable Safeguards, the terms of this Attachment and accounting standards. For purposes of this provision, other authorized government officials includes, but is not limited to, the Secretary of the United States Department of Health and Human Services.
4. GRANTEE will make and document best efforts to remediate any control deficiencies identified during the course of its own audit(s), or upon request by STATE or other authorized government official(s), in a commercially reasonable timeframe.

- H. Documentation Required.** Any documentation required by this Attachment, or by applicable laws, standards, or policies, of activities including the fulfillment of requirements by GRANTEE, or of other matters pertinent to the execution of the Contract, must be securely maintained and retained by GRANTEE for a period of six years from the date of expiration or termination of the Contract, or longer if required by applicable law, after which the documentation must be disposed of consistent with Section 2.6 of this Attachment.

GRANTEE shall document disclosures of Protected Health Information made by GRANTEE that are subject to the accounting of disclosure requirement described in 45 C.R.F. 164.528, and shall provide to STATE such documentation in a time and manner designated by STATE at the time of the request.

- I. Requests for Disclosure of Protected Information.** If GRANTEE or one of its Agents receives a request to disclose Protected Information, GRANTEE shall inform STATE of the request and coordinate the appropriate response with STATE. If GRANTEE discloses Protected Information after coordination of a response with STATE, it shall document the authority used to authorize the disclosure, the information disclosed, the name of the receiving party, and the date of disclosure. All such documentation shall be maintained for the term of the Contract and shall be produced upon demand by STATE.
- J. Conflicting Provisions.** GRANTEE shall comply with all applicable provisions of HIPAA and with the Contract and this Attachment. To extent that the parties determine, following consultation, that the terms of this Attachment are less stringent than the Applicable Safeguards, GRANTEE must comply with the Applicable Safeguards. In the event of any conflict in the requirements of the Applicable Safeguards, GRANTEE must comply with the most stringent Applicable Safeguard.
- K. Data Availability.** GRANTEE, or any entity with legal control of any protected information provided by STATE, shall make any and all protected information under the Contract and this Attachment available to STATE upon request within a reasonable time as is necessary for STATE to comply with applicable law.

### 2.3 Data Security.

- A. STATE Information Management System Access.** If STATE grants GRANTEE access to Protected Information maintained in a STATE information management system (including a STATE “legacy” system) or in any other STATE application, computer, or storage device of any kind, then GRANTEE agrees to comply with any additional system- or application-specific requirements as directed by STATE.
- B. Electronic Transmission.** The parties agree to encrypt electronically transmitted Protected Information in a manner that complies with NIST Special Publications 800-52, Guidelines for the Selection and Use of Transport Layer Security (TLS) Implementations; 800-77, Guide to IPsec VPNs; 800-113, Guide to SSL VPNs, or others methods validated under Federal Information Processing Standards (FIPS) 140-2.

- C. **Portable Media and Devices.** The parties agree to encrypt Protected Information written to or stored on portable electronic media or computing devices in a manner that complies with NIST SP 800-111, Guide to Storage Encryption Technologies for End User Devices.

## 2.4 GRANTEE Permitted Uses and Responsibilities.

- A. **Management and Administration.** Except as otherwise limited in the Contract or this Attachment, GRANTEE may:
1. Use Protected Health Information for the proper management and administration of GRANTEE or to carry out the legal responsibilities of GRANTEE.
  2. **Disclose Protected Health Information for the proper management and administration of GRANTEE,** provided that:
    - a. The disclosure is required by law; or
    - b. The disclosure is required to perform the services provided to or on behalf of STATE or the disclosure is otherwise authorized by STATE, and GRANTEE:
      - i. Obtains reasonable assurances, in the form of a data sharing agreement, from the entity to whom the Protected Health Information will be disclosed that the Protected Health Information will remain confidential, and will not be used or disclosed other than for the contracted services or the authorized purposes; and
      - ii. GRANTEE requires the entity to whom Protected Health Information is disclosed to notify GRANTEE of any compromise to the confidentiality of Protected Health Information of which it becomes aware.
- B. **Notice of Privacy Practices.** If GRANTEE's duties and responsibilities require it, on behalf of STATE, to obtain individually identifiable health information from individual(s), then GRANTEE shall, before obtaining the information, confer with STATE to ensure that any required Notice of Privacy Practices includes the appropriate terms and provisions.
- C. **De-identify Protected Health Information.** GRANTEE may use Protected Health Information to create de-identified Protected Health Information provided that GRANTEE complies with the de-identification methods specified in 45 C.F.R. § 164.514.
- D. **Aggregate Protected Health Information.** GRANTEE may use Protected Health Information to perform data aggregation services for STATE. The use of Protected Health Information by GRANTEE to perform data analysis or aggregation for parties other than STATE must be expressly approved by STATE.

## 2.5 STATE Data Responsibilities

- A. STATE shall disclose Protected Information only as authorized by law to GRANTEE for its use or disclosure.
- B. STATE shall obtain any consents or authorizations that may be necessary for it to disclose Protected Information with GRANTEE.
- C. STATE shall notify GRANTEE of any limitations that apply to STATE's use and disclosure of Protected Information that would also limit the use or disclosure of Protected Information by GRANTEE.
- D. STATE shall refrain from requesting GRANTEE to use or disclose Protected Information in a manner that would violate applicable law or would be impermissible if the use or disclosure were performed by STATE.

## 2.6 Obligations of GRANTEE upon Expiration or Cancellation of the Contract.

Upon expiration or termination of the Contract for any reason:

- A. GRANTEE shall retain only that Protected Health Information which is necessary for GRANTEE to continue its proper management and administration or to carry out its legal responsibilities, and maintain appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic Protected Health Information to prevent the impermissible use or disclosure of any retained Protected Health Information for as long as GRANTEE retains the Protected Health Information.
- B. For all other Protected Information, in compliance with the procedures found in the Applicable Safeguards listed in Section 2.1, or as otherwise required by applicable industry standards, or directed by STATE, GRANTEE shall immediately, destroy or sanitize (permanently de-identify without the possibility of re-identification), or return in a secure manner to STATE all Protected Information that it still maintains.
- C. GRANTEE shall ensure and document that the same action is taken for all Protected Information shared by STATE that may be in the possession of its contractors, subcontractors, or agents. GRANTEE and its contractors, subcontractors, or agents shall not retain copies of any Protected Information.
- D. In the event that GRANTEE cannot reasonably or does not return or destroy Protected Information, it shall notify STATE of the specific laws, rules or policies and specific circumstances applicable to its retention, and continue to extend the protections of the Contract and this Attachment and take all measures possible to limit further uses and disclosures of the client data for so long as GRANTEE or its contractors, subcontractors, or agents maintain the Protected Information.
- E. GRANTEE shall document and verify in a report to STATE the disposition of Protected Information. The report shall include at a minimum the following information:
  - 1. A description of all such information and the media in which it has been

maintained that has been sanitized or destroyed, whether performed internally or by a service provider;

2. The method by which, and the date when, the data and media were destroyed, sanitized, or securely returned to STATE; and
  3. The identity of organization name (if different than GRANTEE), and name, address, and phone number, and signature of individual, that performed the activities required by this Section.
- F. Documentation required by this Section shall be made available upon demand by STATE.
- G. Any costs incurred by GRANTEE in fulfilling its obligations under this Section will be the sole responsibility of GRANTEE.

### 3. INSURANCE REQUIREMENTS

**Network Security and Privacy Liability Insurance.** GRANTEE shall, at all times during the term of the Contract, keep in force a network security and privacy liability insurance policy. The coverage may be endorsed on another form of liability coverage or written on a standalone policy.

GRANTEE shall maintain insurance to cover claims which may arise from failure of GRANTEE's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data including but not limited to confidential or private information, transmission of a computer virus or denial of service. GRANTEE is required to carry the following **minimum** limits:

\$2,000,000 per occurrence

\$2,000,000 annual aggregate

**END OF ATTACHMENT A**

**ATTACHMENT B – SOAR DATA FORM**

SAMPLE

SAMPLE