

Rural Health Transformation Program Grant Agreement

The state of North Dakota, acting through its North Dakota Department of Health and Human Services (NDHHS), {Division} (Grantor), has determined the services identified in the Scope of Service paragraph below form an appropriate basis for the expenditure of funds allocated to Grantor.

Rural Health Transformation Program (RHTP) is supported by Centers for Medicare & Medicaid Services (CMS) of the U.S. Department of Health and Human Services (US HHS) as part of a financial assistance award totaling \$198,936,969.55 with 100 percent (100%) funded by CMS/US HHS. The contents are those of Grantor and do not necessarily represent the official views of, nor an endorsement, by CMS/US HHS, or the U.S. Government.

{Grantee} (Grantee), {Address from PTP}, {City}, {State} {Zip}, proposes to provide those services.

Grantor Procurement Officer

{Name and contact info:}

Grantor Project Manager

{Name and contact info:}

Grantee Point(s) of Contact

{Name and contact info:}

Grantor and Grantee therefore enter into the following:

1. Term of Grant

This Grant runs from {Month} {Day}, {Year}, through {Month} {Day}, {Year}. This Grant will not automatically renew.

Grantor may extend this Grant for up to four additional 12-month periods beyond the expiration date of this Grant, upon written agreement of the parties.

The "Funding Period" refers to the timeframe during which grant funds are available to Grantee for allowable expenditures under this award. Only

costs incurred during the Funding Period and consistent with the approved budget and grant terms may be charged to this Grant.

Funding Period: {Month} {Day}, {Year}

The “Operating Period” refers to the timeframe during which Grantee may implement, operate, and complete the activities described in the approved project plan.

Operating Period: {Month} {Day}, {Year}

The Operating Period may extend beyond the Funding Period to allow for completion of program activities, reporting requirements, or final deliverables. However, no grant funds may be expended outside of the established Funding Period unless explicitly authorized in writing by Grantor Procurement Officer.

2. Scope of Service

Grantee shall [insert Scope of Service for Grant here].

Option: Delete If Not Required

Grantee and Grantor shall identify outcome measures relating to services provided by Grantee. Grantee shall provide outcome measure reports to Grantor as required by Grantor.

Option: Delete If State Fleet Vehicle Not Used

Grantee must follow Grantor’s policies and procedures for use of state fleet vehicles. Grantee’s approved staff may transport Grantor’s clients utilizing state fleet vehicles. Grantee’s staff must carry proof of automobile insurance when operating a state fleet vehicle.

Grantee may not make any changes to Scope of Service unless approved in writing by Grantor Procurement Officer.

3. Compensation

- a. Grantor, upon receive and approval of SFN 1763 Request for Reimbursement or other form required by Grantor, shall reimburse Grantee for allowable expenses incurred. “Allowable expenses” are defined by the Uniform Administrative Requirement, Cost Principles, and Audit Requirements for Federal Awards cited under Section 11 of this Grant. The total amount paid under this Grant may not exceed

#{Total Dollar Amount}. Funds will not be paid for services until the services have been provided. Grantee shall submit its request for reimbursement to Grantor monthly. Grantee shall submit its final reimbursement request to Grantor no later than 30 days after the expiration or termination of this Grant. Grantor may not pay Grantee until Grantee signs and returns to Grantor the Certification of the 2 CFR Part 200 Informational Guide, which is made a part of this Grant by its reference here.

- b. Payment for services under this Grant includes federal monies. Federal award funds must supplement, not replace (supplant) non-federal funds. Grantee shall ensure that federal funds do not supplant funds that have been budgeted for the same purpose through non-federal sources. Grantee may be required to demonstrate and document that a reduction in non-federal resources occurred for reasons other than the receipt of expected federal funds.
- c. All travel costs must comply with the requirements in 2 CFR 200.475.
- d. The funds appropriated in this Grant may not be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level II. This salary cap applies to direct salaries. Grantee may pay salaries at a rate higher than the Executive Level II if the amount beyond the US HHS salary cap is paid with non-US HHS funds and paid with Grantee funds. Since the Executive Level II rate and HHS Appropriations Act citation changes each year, HHS refers to the most recent information posted on the Office of Personnel Management website.
- e. Anticipated funding at the time this Grant is executed is listed below. The funding source of actual payments and the federal program can be verified by contacting Grantor’s Finance Division.

Anticipated Funding:

Source	Dollar Amount
Federal	\$
State	\$
Other	\$

Unknown \$

Assistance Listing Number {CFDA NUMBER FROM PTP IF FEDERAL FUNDS INVOLVED}, {FEDERAL DEPARTMENT FOUND ON CFDA LIST OR WEBSITE}.

Federal Award Identification Number: {FAIN NUMBER FROM PTP}

Federal Award Date: {AWARD DATE FROM PTP}

Unique Entity ID Number: {FROM SFN2}

f. This award is not for Research and Development.

4. Termination

a. Termination by Mutual Agreement or Notice

This Grant may be terminated at any time by mutual consent of both parties executed in writing, or upon 30-days' written notice by either party, with or without cause.

b. Termination for Lack of Funding or Authority

Grantor may terminate the whole or any part of this Grant, effective upon delivery of written notice to Grantee or on any later date stated in the notice, under any of the following conditions:

- 1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or for the indicated term. The Grant may be modified by mutual consent of the parties in writing to accommodate a reduction in funds.
- 2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this Grant or are no longer eligible for the funding proposed for payments authorized by this Grant.
- 3) If any license, permit, or certificate required by law or rule, or by the terms of this Grant, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Grant under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

c. Termination for Cause

Grantor may terminate this Grant effective upon delivery of written notice to Grantee, or any later date stated in the notice:

- 1) If Grantee fails to provide services required by this Grant within the time specified or within any extension agreed to by Grantor; or
- 2) If Grantee fails to perform any of the other provisions of this Grant or so fails to pursue the work in a way that endangers performance of this Grant in accordance with its terms.

The rights and remedies of Grantor provided in this section are not exclusive and are in addition to any other rights and remedies provided by law or under this Grant.

5. Nonperformance

a. Notification of Risks or Problems

Grantee shall immediately, within 24 hours, upon discovery notify the Grantor Procurement Officer and Grantor Project Manager in writing of any significant problems or risks relating to the administrative, financial, and programmatic aspects of the award.

- 1) Significant problems include, but are not limited to, adverse findings pursuant to the terms of this Grant, Grantee's duty to track all subcontractors to this Grant, or issues or barriers that may cause Grantee to miss milestones described in Grant.
- 2) Grantor may elect to allow Grantee an opportunity to take appropriate remedies which may include the Grantee accepting specific award conditions, technical assistance, and/or adhering to a non-compliance action plan within a timeframe and manner determined by Grantor.
- 3) If Grantee fails to meet the terms of any non-compliance action plan within the designated timeframe, Grantor may terminate this Grant.

- 4) If Grantee's actions endanger the public health and welfare, Grantor may immediately terminate this Grant without the opportunity for corrective action.
- 5) In the event of a conflict between the terms of this section and regulations, regulations shall prevail.

b. Remediation Actions

Grantee must remedy noncompliance within 90 days after being notified by Grantor. Remediation may include Grantee submitting a non-compliance action plan detailing its plan to resolve the non-compliance. If Grantee does not remedy noncompliance, Grantor may recover past payments and withhold further payments of both workload and baseline funding. If Grantor withholds or recovers funding, Grantor may do as follows:

- 1) For violations that affect Grantee's technical score: Proportional to the incremental award funds granted based on the technical score points Grantee was previously awarded. This means that Grantor may recalculate workload funding based on a Grantee's updated technical score and withhold or recover funding accordingly.
- 2) For violations that do not directly affect Grantee's technical score: Assessed on a case-by-case basis. All prior and future payments may become eligible for withholding and/or recovery.

As required by Public Law 119-21, any amounts withheld or recovered shall be returned to the Treasury of the United States.

c. Failure to Perform

Failure by Grantee to perform the terms of this Grant constitutes a breach of contract and may result in the termination of the Grant. If a breach by Grantee renders the Grant impossible of performance by Grantee and is caused by circumstances beyond the control of Grantee, and through no fault of Grantee, the Grant will be terminated and Grantor may set off, against any liability or obligations owed to Grantee under this Grant or otherwise, any amounts paid for individual items of work which are incomplete at the time of the breach.

6. Force Majeure

Neither party may be held responsible for delay or default caused by fire, flood, riot, terrorism, pandemics, acts of God, or war if the event is beyond the party's reasonable control, and the affected party gives notice to the other party immediately upon occurrence of the event that caused, or is reasonably expected to cause, the delay or default.

7. Grantee's Understanding of Term of Funding

Grantee understands that this Grant is a one-time grant and acknowledges that it has received no assurances that this Grant may be extended beyond its expiration date.

Funds are not presently available for this Grant past its expiration date. Grantor's obligation under this Grant is contingent upon the availability of appropriated funds from which payment for grant purposes can be made. No legal liability on the part of Grantor for any payment may arise past the expiration date of this Grant until funds are made available to Grantor for this Grant, Grantee receives notice of such availability, and an extension is made by written agreement of the parties.

8. Grantee Assurances

Grantee shall comply with the assurances set forth in the Grantee Assurances found in Attachment A, which is part of this Grant.

9. Authority to Contract

Grantee may subcontract with qualified providers of services, provided that any subcontract acknowledges the binding nature of this Grant, and incorporates this Grant, together with its attachments as appropriate. Grantee is solely responsible for the performance of any subcontractor. Grantee may not contract for or on behalf of or incur obligations on behalf of Grantor. Grantee may not assign or otherwise transfer or delegate any right or duty without Grantor's express written consent.

10. Independent Entity

Grantee is an independent entity under this Grant. Grantee, its employees, agents, or representatives are not employees of Grantor for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the Federal

Unemployment Act, the North Dakota Unemployment Compensation Law, and the North Dakota Workforce Safety and Insurance Act. No part of this Grant may be construed to represent the creation of an employer/employee relationship between Grantor and Grantee. Grantee retains sole and absolute discretion in the manner and means of carrying out Grantee's activities and responsibilities under this Grant, except to the extent specified in this Grant.

11. Audit Responsibility and Expense Allowability

Grantee agrees to keep financial records necessary to fully disclose the complete financial status of the Grant. Grantee must submit documentation supporting requests for reimbursement for review by Grantor or its agents, upon request. If Grantee has expended federal funds (when considering all sources) during Grantee's fiscal year at the amount specified in 2 CFR Part 200 Uniform Grant Guidance, which is made a part of this grant by reference here, that CFR must be followed pursuant to the Single Audit Act of 1984, Public Law 98-502; and the Single Audit Act Amendments of 1996, Public Law 104-156.

Additionally, Grantee agrees to spend all assistance received from Grantor in accordance with applicable laws and regulations from the 2 CFR Part 200 Informational Guide.

12. Retention of Records

Grantee agrees to retain records for at least three years, unless longer retention is required by 2 CFR 200.334, following submission of final financial report of this Grant or, if subject to audit, from the date the audit is completed and closed, whichever occurs later. Program records must be maintained for a period of six years or until an audit is completed and closed, whichever occurs later. All records, regardless of physical form, and the accounting practices and procedures of Grantee relevant to this Grant are subject to examination by the North Dakota State Auditor, the Auditor's designee, Grantor Contract Monitoring, US HHS, CMS, Inspector General, Comptroller General, or federal auditors and Grantee must be able to provide them at any reasonable time. State, State Auditor, Auditor's designee, or Grantor Contract Monitoring shall provide reasonable notice.

13. Contingent Liability

During the term of this Grant, and for three years after this Grant expires or is terminated, Grantee agrees to reimburse Grantor for any claims submitted by Grantor for financial participation in the cost of this Grant to the extent those claims are disallowed by any agency for failure on the part of Grantee to comply with this Grant or any federal or state statutory or regulatory provisions which govern the source of funding. Grantor agrees to give Grantee prompt written notice of any disallowed claims subject to reimbursement by Grantee. Any amount disallowed as described is a debt owing to Grantor. Action may be brought by Grantor as allowed by law.

14. Indemnity

Moderate Rated Risk Analysis

Default Provisions for Routine Non-Professional Service Agreements

Grantee agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers, and employees (State), from and against claims based on the vicarious liability of the State or its agents, but not against claims based on the State's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by Grantee to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Any attorney appointed to represent the State must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under North Dakota Century Code § 54-12-08. Grantee also agrees to reimburse the State for all costs, expenses, and attorneys' fees incurred if the State prevails in an action against Grantee in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this Grant.

Professional Services Agreements Requiring On-Site Services

Grantee agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers, and employees (State), from and against claims based on the vicarious liability of the State or its agents, but not against claims based on the State's contributory negligence, comparative

and/or contributory negligence or fault, sole negligence, or intentional misconduct. This obligation to defend, indemnify, and hold harmless does not extend to professional liability claims arising from professional errors and omissions. The legal defense provided by Grantee to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Any attorney appointed to represent the State must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under North Dakota Century Code § 54-12-08. Grantee also agrees to reimburse the State for all costs, expenses, and attorneys' fees incurred if the State prevails in an action against Grantee in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this Grant.

Low Rated Risk Analysis

Political Subdivisions (Routine) or Other State Agencies or Tribes or Professional Services Agreements Not Requiring On-Site Services

Grantor and Grantee each agree to assume their own liability for any and all claims of any nature, including all costs, expenses, and attorneys' fees which may in any manner result from or arise out of this Grant.

15. Insurance

Moderate Rated Risk Analysis

Default Provisions for Routine Non-Professional Service Agreements and Professional Services Agreements Requiring On-Site Services

- a. Grantee shall provide certificate of insurance and any endorsements to Grantor electronically to:

Name: Connie Faulkner

Email Address: cfaulkner@nd.gov

Email Subject Line: Certificate of Insurance - INSERT

CONTRACT NUMBER/NAME

- b. Grantee shall secure and keep in force during the term of this Grant and Grantee shall require all subcontractors, prior to commencement

of an agreement between Grantee and the subcontractor, to secure and keep in force during the term of this Grant, from insurance companies, government self-insurance pools, or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$2,000,000 per occurrence.
- 2) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$500,000 per person and \$2,000,000 per occurrence.

Replace Paragraph 2 with the Following Language if State Fleet Vehicle Used

- 2) Business automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$500,000 per person and \$2,000,000 per occurrence. Liability and statutorily required coverage, including no fault, and physical damage coverage must be on a primary basis for state fleet vehicles that are utilized by Grantee.
- 3) Workers' compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this Grant.
- 4) Employer's liability or "stop gap" insurance of not less than \$2,000,000 as an endorsement on the workers compensation or commercial general liability insurance.

Option: If Professional Services Required

- 5) Professional errors and omissions with minimum limits of \$1,000,000 per claim and in the aggregate, Grantee shall continuously maintain such coverage during the contract period and for three years thereafter. In the event of a change or cancellation of coverage, Grantee shall purchase an extended reporting period to meet the time periods in this section.

- c. The insurance coverages listed above must meet the following additional requirements:
- 1) Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of Grantee.
 - 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the State. The policies shall be in form and terms approved by the State.
 - 3) The duty to defend, indemnify, and hold harmless the State under this Grant shall not be limited by the insurance required in this Grant.
 - 4) The state of North Dakota and its agencies, officers, and employees (State) shall be endorsed on the commercial general liability policy on a primary and noncontributory basis, including any excess policies (to the extent applicable), as additional insured. The State shall have all the benefits, rights, and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this Grant or by the contractual indemnity obligations of Grantee.
 - 5) A "Waiver of Subrogation" waiving any right to recovery the insurance company may have against the State.
 - 6) Grantee shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this Grant. All endorsements shall be provided as soon as practicable.
 - 7) Failure to provide insurance as required in this Grant is a material breach of contract entitling State to terminate this Grant immediately.
 - 8) Grantee shall provide at least 30-day notice of any cancellation or material change to the policies or endorsements. Grantee shall provide on an ongoing basis, current certificates of insurance during the term of the Grant. A renewal certificate will be provided

10 days prior to coverage expiration. An updated, current certificate of insurance shall be provided in the event of any change to a policy.

Low Rated Risk Analysis

Political Subdivisions and Tribes (Routine)

- a. Grantee shall provide certificate of insurance and any endorsements to Grantor electronically via to:

Name: Connie Faulkner

Email Address: <mailto:kylnelson@nd.gov> cfaulkner@nd.gov

Email Subject Line: Certificate of Insurance - **INSERT
CONTRACT NUMBER/NAME**

- b. Grantee shall secure and keep in force during the term of this Grant, from insurance companies, government self-insurance pools, or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$2,000,000 per occurrence.
- 2) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$500,000 per person and \$2,000,000 per occurrence.

Replace Paragraph 2 with the Following Language if State Fleet Vehicle Used

- 2) Business automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$500,000 per person and \$2,000,000 per occurrence. Liability and statutorily required coverage, including no fault, and physical damage coverage must be on a primary basis for state fleet vehicles that are utilized by Grantee.
- 3) Workers' compensation coverage meeting all statutory requirements.

- c. The insurance coverages listed above must meet the following additional requirements:
- 1) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by Grantor. The policies shall be in form and terms approved by Grantor.
 - 2) Grantee shall furnish a certificate of insurance to the undersigned Grantor representative prior to commencement of this Grant.
 - 3) Failure to provide insurance as required in this Grant is a material breach of contract entitling Grantor to terminate this Grant immediately.
 - 4) Grantee shall provide at least 30-day notice of any cancellation or material change to the policies or endorsements. An updated, current certificate of insurance shall be provided in the event of any change to a policy.

Other State Agencies

Grantor and Grantee each shall secure and keep in force during the term of this Grant, from an insurance company, government self-insurance pool, or government self-retention fund authorized to do business in North Dakota, commercial general liability with a minimum limit of liability of \$2,000,000 per occurrence.

16. Notice

Any notice or other communication required under this Grant not otherwise required to be sent to Grantee Procurement Officer and Grantee Project Manager must be given by registered or certified mail and is complete on the date mailed when addressed to the parties at the following addresses:

{Grantee}
[Address]
[City, State, Zip]

ND Department of Health and Human Services

{Division}
[Address]
[City, State, Zip]

Notice provided under this provision does not meet the notice requirements for monetary claims against Grantor found at North Dakota Century Code § 32-12.2-04.

17. Integration, Modification, and Conflict in Documents

- a. Unless authorized under subsection b, this Grant constitutes the entire Grant between Grantee and Grantor. There are no understandings, agreements, or representations, oral or written, not specified within this Grant. No alteration, amendment, or modification of this Grant is effective unless it is reduced to writing, signed by the parties, and attached to the Grant.
- b. Grantor may amend the terms of this Grant without the consent of Grantee for good cause, or as necessary to comply with applicable federal or State law, regulatory requirements, CMS requirements, accreditation standards, or licensing guidelines or rules. Grantor will include with any such amendment an explanation of the reasons for the amendment. To the extent practicable, Grantor will provide Grantee with 30 days' advance written notice of any unilateral amendment, which notice must specify the amendment's effective date.
- c. All terms and conditions contained in any end user agreements (e.g., automated click-throughs, shrink wrap, or browse wrap) are specifically excluded and null and void, and shall not alter the terms of this Grant. Clicking shall not represent acknowledgement or agreement to any terms or conditions contained in those agreements.
- d. If any inconsistency exists between this Grant and other provisions of collateral contractual grants which are made a part of this Grant by reference or otherwise, the provisions of this Grant control.

18. Severability

If any term of this Grant is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms will not be affected and, if possible, the rights and obligations of the parties are to be

construed and enforced as if the Grant does not contain the illegal or unenforceable term.

19. Applicable Law and Venue

This Grant is governed by and construed according to the laws of the state of North Dakota. Any action to enforce this Grant must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.

20. Assignment

Grantee may not assign this Grant without Grantor's express written consent, provided, however, that Grantee may assign its rights and obligations hereunder in the event of a change of control or sale of all or substantially all of its assets related to this Grant, whether by merger, reorganization, operation of law, or otherwise. Should the assignee be a business or entity with whom Grantor is prohibited from conducting business, Grantor shall have the right to terminate without cause. This Grant is equally binding on the respective parties and their successors and assigns.

21. Spoliation – Preservation of Evidence

Grantee shall promptly notify Grantor of all potential claims that arise or result from this Grant. Grantee shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to Grantor the opportunity to review and inspect the evidence, including the scene of an accident.

22. Works For Hire

Grantee acknowledges that all work(s) under this Grant is "work(s) for hire" within the meaning of the United States Copyright Act (Title 17 United States Code) and hereby assigns to Grantor all rights and interests Grantee may have in the work(s) it prepares under this Grant, including any right to derivative use of the work(s). All software and related materials developed by Grantee in performance of this agreement for Grantor shall be the sole property of Grantor, and Grantee hereby assigns and transfers all its right, title, and interest therein to Grantor.

Grantee shall execute all necessary documents to enable Grantor to protect Grantor's intellectual property rights under this section.

23. Work Product, Equipment, and Materials

All work product, equipment, and materials created or purchased under this Grant belong to Grantor and must be delivered to Grantor at Grantor's request upon expiration or termination of this Grant.

24. Confidential Information

Grantee shall not use or disclose any information it receives from Grantor under this Grant that Grantor has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Grant or as authorized in advance by Grantor.

Grantor shall not disclose any information it receives from Grantee that Grantee has previously identified as confidential and that Grantor determines, in its sole discretion, is protected from mandatory public disclosure under a specific exception to the North Dakota open records law found in N.D.C.C. § 44-04-18. The duty of Grantor and Grantee to maintain confidentiality of information under this section continues beyond the term of this Grant, including any extensions or renewals.

25. Compliance with Public Records Laws

Grantee understands that, except for disclosures prohibited in this Grant, Grantor must disclose to the public upon request any records it receives from Grantee. Grantee further understands that any records obtained or generated by Grantee under this Grant, except for records that are confidential under this Grant, may be open to the public upon request under certain circumstances under the North Dakota open records law. Grantee agrees to contact Grantor immediately upon receiving a request for information under the open records law and to comply with Grantor's instructions on how to respond to the request.

26. Attorney Fees

If a lawsuit is filed by Grantor to obtain performance due under this Grant, and Grantor is the prevailing party, Grantee shall pay Grantor's reasonable attorney fees and costs in connection with the lawsuit except when prohibited by North Dakota Century Code § 28-26-04.

27. Alternative Dispute Resolution – Jury Trial

Grantor does not agree to binding arbitration, mediation, or any other form of mandatory alternative dispute resolution. The parties may enforce their rights and remedies in judicial proceedings. Grantor does not waive any right to a jury trial.

28. Nondiscrimination – Compliance with Laws

Grantee shall comply with all applicable federal and state laws, rules, and policies, including those relating to nondiscrimination, accessibility and civil rights. (See N.D.C.C. Title 34 – Labor and Employment, specifically N.D.C.C. ch. 34-06.1 Equal Pay for Men and Women.)

Grantee shall timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes, unemployment compensation, and workers' compensation premiums. Grantee also shall have and keep current at all times during the term of this Grant all licenses and permits required by law.

Grantee is prohibited from boycotting Israel for the duration of this Grant. (See N.D.C.C § 54-44.4-15.) Grantee represents that it does not and will not engage in a boycotting Israel during the term of this Grant. If State receives evidence that Grantee boycotts Israel, State shall determine whether the company boycotts Israel. The foregoing does not apply to contracts with a total value of less than \$100,000 or if Grantee has fewer than ten full-time employees.

Grantee's failure to comply with this section may be deemed a material breach by Grantee entitling State to terminate in accordance with the Termination for Cause section of this Grant.

29. Direct and Indirect Rates

The terms of this Grant provide for an indirect rate. This rate is limited to the rate negotiated for the time frame the direct expenditures were incurred. Grantee may claim such direct and indirect costs provided they are consistent with the 2 CFR Part 200 Informational Guide.

Or

The terms of this Grant do not provide for an indirect rate. Grantee may claim direct costs provided they are consistent with the 2 CFR Part 200 Informational Guide.

30. Expenditure Expectations and Future Funding Impact

Full and timely expenditure of awarded RHTP funds is critical to Grantor's ongoing federal funding considerations. Failure by Grantor or Grantee to effectively expend RHTP funds may negatively impact future award levels or funding opportunities.

Grantee is expected to:

- a. Monitor spending monthly.
- b. Identify potential underutilization early.
- c. Notify State of anticipated unspent funds.
- d. Develop corrective spending plans when necessary.

Grantee acknowledges that failure to comply with supplanting, cost allocation, or expenditure requirements may result in corrective action, disallowed costs, repayment, reduction in future funding allocations, or termination of this Grant.

31. Billing Allocation Requirements – Regional Councils

Where Regional Councils perform work under multiple funding streams, the following billing standards apply:

- a. All work directly attributable to approved RHTP activities must be billed to RHTP.
- b. Work attributable to the Rural Catalyst Grant or other funding sources must be billed accordingly to those funding streams.
- c. Cost allocation methodologies must be consistently applied and auditable.

Failure to properly allocate costs may result in repayment obligations or disallowed costs.

32. Court Orders

Any term or condition in this Grant, including those incorporated by reference, that US HHS is enjoined by court order from imposing or enforcing shall not apply or be enforced as to any recipient or subrecipient to which that court order applies and while that court order is in effect.

33. Fraud, Waste, and Abuse

The US HHS Office of the Inspector General (OIG) maintains a toll-free number (1-800-HHS-TIPS [1-800-447-8477]) for receiving information concerning fraud, waste, or abuse under grants and cooperative agreements as well as the HHS OIG website. Information may also be submitted by email or by mail to:

Office of the Inspector General
U.S. Department of Health & Human Services
Attn: HOTLINE 330 Independence Ave., SW
Washington, DC 20201

Such reports are treated as sensitive material and submitters may decline to give their names if they choose to remain anonymous.

34. Reservation of Rights

Nothing contained in this Grant is intended or shall be construed as a waiver by the United States Department of Justice, the Internal Revenue Service, the Federal Trade Commission, HHS OIG, CMS, or Grantor of any right to institute any proceeding or action against Grantee for violations of any statutes, rules or regulations administered by the Government, or to prevent or limit the rights of the Government to obtain relief under any other federal or state statutes or regulations, or on account of any violation of this award or any other provision of law. This Grant shall not be construed to bind any Government agency except Grantor, and this Grant binds Grantor only to the extent provided herein, unless prohibited by law.

The failure by Grantor to require performance of any provision shall not affect Grantor or CMS's right to require performance at any time thereafter, nor shall a waiver of any breach or default result in a waiver of the provision itself.

35. Conflict of Interest Policies

Grantee must comply with the conflict-of-interest policy requirements in 2 CFR 200.112 and 2 CFR 300.112.

36. Bankruptcy

If Grantee or one of its subrecipients enters bankruptcy proceedings, whether voluntary or involuntary, Grantee agrees to provide written notice of the bankruptcy to the Grantor Procurement Officer and Grantor Project Manager within five (5) days of initiation of the proceedings. This notice shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, a copy of any and all of the legal pleadings, and a listing of Government grant and cooperative agreement numbers and grant offices for all Government grants and cooperative agreements against which final payment has not been made.

37. Human Subjects Protection

If applicable to Grantee's program, Grantee bears ultimate responsibility for protecting human subjects under the award, including human subjects at all sites, and for ensuring that a Federal-wide Assurance (FWA) approved by the Office for Human Research Protections (OHRP) and certification of Institutional Review Board (IRB) review and approval have been obtained before human subjects research can be conducted at each collaborating site.

Grantee may not draw funds from Grantor, request funds from the paying office, or make obligations against Federal funds for research involving human subjects at any site engaged in nonexempt research for any period not covered by both an OHRP-approved assurance and IRB approval consistent with 45 CFR Part 46. Costs associated with IRB review of human research protocols are not allowable as direct charges under grants and cooperative agreements unless such costs are not covered by the organization's indirect cost rate.

Grantor and US HHS require Grantee and others involved in grant/cooperative agreement-supported research to take appropriate actions to protect the confidentiality of information about and the privacy of individuals participating in the research. Grantor, subrecipients, Investigators, IRBs, and other appropriate entities must ensure that

policies and procedures are in place to protect identifying information and must oversee compliance with those policies and procedures.

38. Privacy and Security of Health Information and Substance Use Disorder Information

Grantee shall put all appropriate regulatory, administrative, technical, and physical safeguards in place before applicable program activities begin to protect the privacy and security of individually identifiable health information and substance use disorder treatment. In doing so, regardless of whether it is a covered entity (CE) or business associate (BA) as those terms are defined under the HIPAA Privacy Rule, or a Qualified Service Organization (QSO) as defined under 42 U.S.C. § 290dd-2 and 42 CFR Part 2, (collectively “Part 2”), the federal law and regulations governing the confidentiality of substance use disorder treatment information, Grantee shall ensure its own and its subrecipients’ and contractors’ policies and procedures are at least as stringent (i.e., protective of privacy) as those governing the use and disclosure of protected health information by HIPAA CEs and their BAs under 45 CFR Part 160 and 45 CFR Part 164, and the use of disclosure of substance use disorder treatment information by QSOs under Part 2. Grantee and its subrecipients should consult with their own counsel and refer to the HIPAA and Part 2 guidance materials for further information about the requirements in 45 CFR Parts 160 and 164, and Part 2.

39. Employee Whistleblower Protections

Federal law mandates that all Federal contractors, subcontractors, recipients, subrecipients, or personal services contractors, must inform their employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

40. Mandatory Disclosures

Consistent with 2 CFR 200.113, Mandatory disclosures, Grantor must promptly disclose, in writing, to CMS with a copy to the HHS OIG, all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Additionally, subrecipients must promptly disclose, in a timely manner, in writing to the Grantor Procurement Officer and the HHS OIG, all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award.

Disclosures must be sent in writing to CMS and to the HHS OIG at the following addresses:

U.S. Department of Health & Human Services
Centers for Medicare & Medicaid Services
Office of Acquisition and Grants Management
Attn: Director, Division of Grants Management, Mandatory Grant
Disclosures
7500 Security Blvd, Mail Stop B3-30-03
Baltimore, MD 21244-1850

Materials must also be scanned and emailed to your Grants Management Specialist.

And

U.S. Department of Health & Human Services
Office of Inspector General
ATTN: Mandatory Grant Disclosures, Intake Coordinator
330 Independence Avenue, SW, Cohen Building
Room 5527
Washington, DC 20201
Fax: (202) 205-0604 (Include "Mandatory Grant Disclosures" in subject line) or
Email: MandatoryGranteeDisclosures@oig.hhs.gov

Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.339, Remedies for noncompliance, including suspension or debarment (See 2 CFR 200 Part 180 & 2 CFR 200 Part 376 and 31 U.S.C. 3321).

The recipient must include this mandatory disclosure requirement in all subawards and contracts under this award.

41. Cybersecurity

Grantee must create a cybersecurity plan if Grantee's project involves both of the following conditions:

- a. Grantee will have ongoing access to Grantor or US HHS information or technology systems.
- b. Grantee handles personal identifiable information (PII) or personal health information (PHI) from Grantor or US HHS.

42. Cost Principles

Grantee and its subrecipients must comply with the cost principles set forth in HHS regulations at 2 CFR 200, Subpart E. Grantee and its subrecipients must also use these principles as a guide in pricing fixed-price contracts and subcontracts when costs are used in determining the appropriate price. Hospitals must follow Appendix IX to 2 CFR 300. Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.

For-profit recipients are subject to 48 CFR subpart 31.22. For more detailed information on applicability and exemptions, refer to 2 CFR 200.401.

Guidelines for determining direct and indirect (F&A) costs charged to Federal awards are provided in 2 CFR 200 Direct and Indirect Costs and Special considerations for States, Local Governments, and Indian tribes. Requirements for development and submission of indirect (F&A) cost rate proposals and cost allocation plans are contained in Appendices III Appendix IX to Part 200.

For-profit entities which receive the preponderance of their federal awards from HHS may contact the Division of Financial Advisory Services (DFAS), Indirect Cost Branch, to negotiate an indirect cost rate. Otherwise, for-profit organizations are limited to the 15% de minimis rate in accordance with 2 CFR 200.414(f).

43. Prohibited Uses of Grant Funds

The following list contains costs that are unallowable for all CMS programs, including this Grant.

- a. Pre-award costs.
- b. Meeting matching requirements for any other federal funds or local entities.
- c. Services, equipment, or supports that are the legal responsibility of another party under federal, state, or tribal law such as vocational rehabilitation or education services. Such legal responsibilities include, but are not limited to, modifications of a workplace or other reasonable accommodations that are a specific obligation of the employer or other party.

- d. Goods or services not allocable to the approved project.
- e. Supplanting existing state, local, tribal, or private funding of infrastructure or services, such as staff salaries.
- f. Construction.
- g. Capital expenditures for improvements to land, buildings, or equipment that materially increase their value or useful life as a direct cost except with the prior written approval.
- h. The cost of independent research and development, including their proportionate share of indirect costs in accordance with 2 CFR 300.477.
- i. Profit to any recipient even if the recipient is a for-profit organization. Profit is any amount in excess of allowable direct and indirect costs.
- j. Funds related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or executive order proposed or pending before the Congress or any state government, state legislature or local legislature or legislative body. See also 45 CFR part 93, 2 CFR 200.450, Lobbying, and applicable Appropriations Law.
- k. Other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a state, local, or tribal government in policymaking and administrative processes within the executive branch of that government, funding awarded under this Grant may not be used for:
 - 1) Paying the salary or expenses of any grant recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or executive order proposed or pending before the Congress or any state government, state legislature, or local legislature or legislative body.
 - 2) Lobbying, but recipients can lobby at their own expense if they can segregate federal funds from other financial resources used for lobbying.

- 3) Certain telecommunications and video surveillance equipment. See 2 CFR 200.216.
- l. Costs of promotional items and memorabilia, including models, gifts, and souvenirs.
- m. Costs of advertising and public relations designed solely to promote the non-Federal entity.
- n. Meals unless in limited circumstances such as:
 - 1) Subjects and patients under study;
 - 2) Where specifically approved as part of the project or program activity (not recipient specific), e.g., in programs providing children's services; and
 - 3) As part of a per diem or subsistence allowance provided in conjunction with allowable travel. For guidance on some types of costs that are restricted or not allowed, see 2 CFR 200.

44. Continued Funding

Grantee must demonstrate satisfactory performance during the previous funding cycle(s) to be issued additional year funding; or, in the case of multi-year awards where all funding is issued in the first year, to ensure continued access to funding.

Additionally, as is noted in 2 CFR 200, CMS annually conducts a review of risks posed by applicants prior to award (recipients should review the factors in their entirety at 2 CFR 200.206, Federal agency review of risk posed by applicants). At-risk recipients, including those which do not comply with reporting requirements or have outstanding audit findings, may not receive a non-competing continuation award. Alternatively, recipients could receive decreased funding, or their award could be terminated subject to the provisions at 2 CFR 200.340, Termination if they are non-compliant with the terms and conditions of award.

45. Project and Data Integrity

Grantee must protect the confidentiality of all project-related information that includes personally identifying information. Grantee must assume responsibility for the accuracy and completeness of the information

contained in all technical documents and reports submitted. Grantor shall not direct the interpretation of the data used in preparing these documents or reports. At any phase in the project, including the project's conclusion, Grantee, if requested by Grantor, must deliver to Grantor materials, systems, or other items used, developed, refined or enhanced in the course of, or under this Grant. Grantee agrees that Grantor or CMS must have a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use and authorize others to use the items for Federal government purposes. See also 2 CFR 200.315(b), Intangible Property.

46. System of Award Management (Sam) and Universal Entity Identifier (UEI) Requirements

This Grant is subject to the requirements of 2 CFR part 25, Appendix A which is specifically incorporated herein by reference. Grantee must maintain current information in SAM, at all times when an award is active or if there is an application pending review. Grantee must review and update the information at least once a year after the initial registration to remain active, and more frequently if required by changes in the information. This requirement flows down to subrecipients and contractors under awards or subawards.

As part of its SAM registration and renewal process, Grantee must also complete or update its Responsibility/Qualification (R/Q) reporting to reflect information about its civil, criminal, or administrative proceedings. Grantee must answer "Yes" to question #1 (shown below) of the Proceedings question in SAM.gov to view and answer all relevant questions.

- Is your business or organization, as represented by the Unique Entity ID on this entity registration, responding to a Federal procurement opportunity that contains the provision at FAR 52.209-7, subject to the clause in FAR 52.209-9 in a current Federal contract, or applying for a Federal grant opportunity which contains the award term and condition described in 2 C.F.R. 200 Appendix XII to Part 200, Award Term and Condition for Recipient Integrity and Performance Matters?

47. Monitoring, Reporting, and Access to Information

At any time during the term of this Agreement and for a period of years thereafter, Grantor may request and receive updates regarding the

status of this Grant, the use of funds provided under this Grant, and the acquisition, use, condition, and disposition of any equipment purchased in whole or in part with RHTP funds.

Upon request, successful offeror shall provide timely written reports, documentation, records, and other information necessary to verify compliance with the terms of this Grant. Such documentation may include:

- a. Proof of purchase and payment records
- b. Inventory records and asset tagging documentation
- c. Location and condition of equipment
- d. Maintenance and usage logs
- e. Financial records related to funded expenditures
- f. Status updates on performance of agreement deliverables

Upon reasonable notice, STATE may conduct site visits, inspections, or audits to verify compliance. Grantee shall provide access to facilities, personnel, records, and equipment as reasonably necessary for such review.

48. Financial Reporting

Grantee must record expenses in real-time as well as submit quarterly, semi-annual, or annual expenditure reports.

- a. Quarterly and semi-annual expenditure reports are due no later than 10 days following the applicable period.
- b. Annual expenditure Federal Financial Reports are due no later than 30 days following the applicable budget period end date or 12-month period for multi-year budget periods.
- c. Final reports are due no later than 90 days following the period of performance end date.
 - 1) The final report must show cumulative expenditures under this Grant and any unobligated balance of federal funds and as appropriate.

- 2) Additionally, Grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the period of performance.

This deadline may be extended with prior written approval from the Grantor Procurement Officer.

49. Stevens Amendment

- a. When issuing statements, press releases, publications, requests for proposals, bid solicitations, and other documents – such as toolkits, resource guides, websites, and presentations – describing the projects or programs funded in whole or in part with US HHS funds, Grantee must clearly state:

- 1) the percentage and dollar amount of the total costs of the program or project funded with Federal money; and
- 2) the percentage and dollar amount of the total costs of the project or program funded by non-governmental sources.

- b. Acknowledgement of Support

When issuing statements resulting from activities supported by US HHS financial assistance, Grantee must include an acknowledgement of federal assistance using one of the following or a similar statement (see immediately below).

- 1) If this Grant is NOT funded with other non-governmental sources:

This [project/publication/program/website, etc.] [is/was] supported by the Centers for Medicare & Medicaid Services (CMS) of the U.S. Department of Health and Human Services (HHS) as part of a financial assistance award totaling \$XX with 100 percent funded by CMS/HHS. The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by CMS/HHS, or the U.S. Government.

- 2) If this Grant IS partially funded with other nongovernmental sources:

This [project/publication/program/website, etc.] [is/was] supported by the Centers for Medicare & Medicaid Services (CMS) of the U.S. Department of Health and Human Services (HHS) as part of a financial assistance award totaling \$XX with XX percentage funded by CMS/HHS and \$XX amount and XX percentage funded by non-government source(s). The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by CMS/HHS, or the U.S. Government.

- c. Review by Grantor. Grantee shall submit the following to the Grantor Procurement Officer for review and comment:
 - 1) At least 30 days prior to its release:
 - a) Publications that report results from or describe information obtained through this Grant.
 - b) Any external formal presentation of any report or statistical or analytical material based on information obtained through this Grant. Formal presentations include papers, articles, professional publication, speeches, and testimony.
 - c) External presentation-related material, such as abstracts, power point presentations or other slide decks, posters, and videos.
 - d) All public materials specific to the program including, but not limited to, brochures, recruitment materials, informational materials, advertisements, website copy, website pages, videos, and op-ed articles.
 - 2) At least 7 days prior to release:
 - a) any press release or media advisory concerning the outcome of activities supported through this Grant.
 - b) all media interviews, media requests, releases of information, filming, and broadcasts.
 - 3) For 1 year after completion of the project, Grantee shall continue to submit for review and comment all publications,

presentations, and communications resulting from this Grant or based on information obtained through this Grant, including papers, articles, professional publications, power point presentations, posters, speeches, announcements, and testimony in any format, including digital technology.

- 4) It is the policy of US HHS that Grantee must communicate to Grantor how the dollar amounts and funding percentages are calculated, including whether or not indirect costs have been incorporated. Grantee must submit this information to Grantor for review and comment for each applicable type of result/accomplishment according to the same timeline schedule outlined above.
- 5) Specifically excluded from the review and comment process are internal presentations, information discussions, in general, class lectures, and informal meetings and conversations with community leaders. However, if such a presentation or slide deck is later re-purposed for a public event, it will need to be submitted in advance for Grantor review.
- 6) One copy of each publication resulting from work performed under any project supported by this Grant must accompany the final progress report.

50. Use of Data and Work Products (Reporting)

At any phase of the project, including the project's conclusion, Grantee, if so requested by Grantor, must submit copies of analytic data file(s) with appropriate documentation, representing the data developed/used in end-product analyses generated under the award.

- a. The analytic file(s) may include primary data collected, acquired or generated under this Grant and/or data furnished by CMS.
- b. The content, format, documentation, and schedule for production of the data file(s) will be agreed upon by Grantor Procurement Officer.
- c. The negotiated format(s) could include both file(s) that would be limited to Grantor or CMS's internal use and file(s) that Grantor or CMS could make available to the general public.

- d. All data provided by CMS will be used for the research described in this Grant only and in connection with the Grantee's performance of its obligations and rights under this Grant. Grantee has an obligation to collect and secure data for future monitoring by Grantor or CMS. Grantee will return any data provided by Grantor or CMS or copies of data at the conclusion of the project. All proprietary information and technology of Grantee are and shall remain the sole property of the Grantee.
- e. If Grantor or CMS determines through Grantee's research that a significant new finding has been developed, Grantor will communicate it to CMS before formal dissemination to the general public. Grantee shall notify Grantor of research conducted for publication.

51. Patents and Inventions

In accordance with 2 CFR 200.448, Intellectual Property, Grantee is subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401. If applicable, Grantee must report any inventions on an annual basis using the non-competing continuation application or annual progress report for multi-year budget periods.

- a. Final Invention Statement and Certification (Form HHS 568) must be completed and submitted to Grantor Procurement Officer within **120** days following the expiration or termination of this Grant.
 - 1) The Statement must include all inventions which were conceived or first actually reduced to practice under this Grant, from the original effective date of support through the date of completion or termination.
 - 2) The Statement shall include any inventions reported previously for this Grant as part of a non-competing continuation application or annual progress report.
 - 3) Grantee must also provide details about all inventions that have been licensed but not patented and include details on income resulting from HHS-funded inventions and patents. Unpatented research products or resources—research tools—may be made available through licensing to vendors

or other investigators. Income earned from any resulting fees must be treated as program income. This reporting requirement is applicable to grants and cooperative agreements issued by the U.S. HHS in support of research and research-related activities. For further guidance, please see the US HHS Grant Policy Statement: Patents and Inventions and Invention Reporting.

52. Audit Reporting (see 2 CFR 200.501, Audit Requirements)

A non-Federal entity that expends \$1,000,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year and submit an audit reporting package to the Federal Audit Clearinghouse (FAC). HHS grant awarding agencies are required to ensure that single or program-specific audits are completed and reported by recipients within nine months after the end of the audit period (recipient FY end date).

For questions and information concerning the FAC submission process, please contact the FAC (entity which assists Federal cognizant and oversight agencies in obtaining audit data and reporting packages) at 888-222-9907.

For-profits including for-profit hospitals should consult 2 CFR 300.218 for limitations on profit and program income. Audits for for-profit organizations with HHS programs must be sent to:

- a. the HHS Audit Resolution Division (ARD) via email at For-Profit_Audit@hhs.gov
- b. copy to: Grantor Procurement Officer
- c. All for-profit organization audit submission questions should be sent to ARD via email at AuditResolution@hhs.gov.

Do not send audits for organizations (for-profits) to the FAC.

53. Subrecipient Pass-Through Requirements

If approved by Grantor, Grantee may provide a portion of the direct award to other organizations, called subrecipients, to accomplish the goals and objectives of this Grant. In this case, Grantee becomes a pass-through entity and the subrecipient's award is called a subaward. As a recipient,

Grantee must ensure the applicable general terms and conditions stated in this Grant flow down to subrecipients. Grantee is completely legally and financially responsible for all aspects of this Grant, including funds provided to subrecipients, in accordance with 2 CFR 200, Subpart D, Subrecipient monitoring and management.

54. Affirmative Duty to Track All Parties to the Award

Grantee must at a minimum regularly track all subrecipients, including subrecipient key personnel and subcontractors in SAM.gov.

As provided in 2 CFR Part 180 and implemented in 2 CFR Part 376, Grantee must check SAM.gov as follows to ensure that it does not make a subaward to an entity that is debarred, suspended, or ineligible:

- a. For all first-tier subawards regardless of potential value. Agencies must also require first-tier subrecipients and lower-tier subrecipients to check SAM.gov and
- b. For all first-tier procurement contracts with a value of \$40,000 or more and all lower tiers of subcontracts under covered non-procurement transactions (2 CFR 376.220).

The purpose of this affirmative duty is to track all parties that include health care, commercial, non-profit, and other people and entities for Grantee to report immediately to Grantor and CMS those that cannot participate in federal programs or receive federal funds. Grantee cannot have any persons or entities on this Grant that cannot participate in federal programs or receive federal funds. If any of these systems are not publicly available, then Grantee must comply with the purpose and intent of this requirement using a process that meets at least the level of scrutiny provided by these databases.

Grantee shall provide the Grantor Procurement Officer and Grantor Project Manager with the National Provider Identifier (NPI), Tax ID, and EIN, as applicable, of all Key Personnel and/or entities to this Grant that may include subrecipients. This list shall be provided to Grantor within 30 days from the start of this Grant and must be maintained in real time throughout the term of this Grant.

55. Closeout

- a. Withdrawal

If Grantee decides to withdraw from this Grant prior to the end of the period of performance, it must provide written notification (both hard copy and via email) to the Grantor Procurement Officer and Grantor Project Manager at least 15 days in advance of the date of official withdrawal and termination of this Grant. The letter must be signed by the Grantee and submitted as an amendment. Grantor and CMS will not be liable for any withdrawal close-out costs that are borne by Grantee. Grantee has 3 days to return all unused grant funds.

b. Disposition of Federally Owned Property, Equipment, and Residual Unused Supplies

Upon completion (or early termination) of a project, Grantee must take appropriate disposition actions.

Grantee must complete and submit the SF-428 Cover Letter and the SF-428-B Tangible Personal Property Report, Final Report. The Tangible Personal Property Report (SF-428) is a standard form to be used by awarding agencies to collect information related to tangible personal property when required by a Federal financial assistance award. This form:

- 1) allows Grantee to request specific disposition of federally owned property and acquired equipment.
- 2) provides a means for calculating and transmitting appropriate compensation to Grantor and CMS for residual unused supplies.

As noted in 1.b of this report, if Grantee is in possession of Federally-owned property or acquired equipment (defined as nonexpendable personal property with an acquisition cost of \$10,000 or more under the award), Grantee must also submit a SF-428-S, Supplemental Sheet, that lists and reports on all Federally owned or acquired equipment under the this Grant. If there is no tangible personal property to report, select "d." in section 1 of the SF-428-B and indicate "none of the above." Grantee must request specific disposition instructions from Grantor if Grantee has federally owned property. Otherwise, disposition instructions 2 CFR 200.313 Equipment and 2 CFR 200.314 Supplies.

56. Incorporated by Reference

The following are incorporated into this Grant by reference:

- a. US HHS Grant Policy Statement ([Grants Policies & Regulations | HHS.gov](#))
- b. Medicare and Medicaid anti-kickback statute: 42 U.S.C. § 1320a-7b.
- c. Prohibition on certain telecommunications and video surveillance services or equipment: 2 CFR 200.216.
- d. Suspension and Debarment regulations: 2 CFR 200.214.
- e. Health Information Technology (HIT) Interoperability requirements.
- f. The Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as implemented by 2 CFR Part 170. Requirements include:
 - 1) First-tier subaward reporting of \$40,000 or more in federal funds. Due no later than 30 days after issuance of subaward.
 - 2) Executive compensation reporting, if required, as referenced in 2 CFR Part 170. Due no later than 30 days after issuance of subaward.
- g. Federally owned and exempt property: 2 CFR 200.312. Grantee must submit annually an inventory listing of Federally owned property in its custody to Grantor.
- h. Pass Through Entities, Subrecipients, and Contractors: 2 CFR 200.331, Subrecipient and contractor determinations, and 2 CFR 200.332, Requirements for pass-through entities. Grantee must monitor the activities of its subrecipients as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of this Grant; and that subaward performance goals are achieved.
- i. Non-compliance, 2 CFR 200.208, Specific conditions, and 2 CFR 200.339, Remedies for noncompliance.
- j. Records Retention: 2 CFR 200.334, Records retention requirements.

- k. Davis-Bacon and Related Acts: 29 CFR, Subtitle A, Part 5, Subpart A.
- l. McNamara-O'Hara Service Contract Act of 1965, as amended: 41 USC 351 *et seq.*

{Grantee}

By:

Its:

Date:

Grantee's Federal Taxpayer Identification Number: {ID number or SSN}

State of North Dakota

North Dakota Department of Health and Human Services

By:

Donna Aukland, Chief Financial Officer

Date:

By:

{Division Director} Director, {Division}

Date:

By:

Connie Faulkner, Procurement Officer

Date:

Approved for form and content.

Attachment A

Grantee Assurances

- A. In connection with furnishing supplies or performing work under this Grant, persons who contract with or receive funds to provide services to Grantor are obligated and agree to comply with the laws of the State of North Dakota, North Dakota Administrative Code, all local, state, and federal laws, codes, rules, regulations, and executive orders related to the performance of this Grant, including the following: Fair Labor Standards Act, the applicable requirements of US HHS, the North Dakota Human Rights Act, Equal Pay Act of 1963, Equal Employment Opportunity Act and regulations issued by the government, Titles VI and VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, the Drug Abuse Prevention, Treatment, and Rehabilitation Act of 1970, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Drug-free Workplace Act of 1988, the Americans with Disabilities Act of 1990, Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act of 1992, the Pro-Children Act of 1994, Title IX of the Education Amendments of 1972, and Section 1557 of the Affordable Care Act.
- B. Unless otherwise authorized by federal law, the charges to be made by Grantee do not include costs financed by federal monies other than those generated by this Grant.
- C. By signing this Grant, Grantee certifies that neither Grantee, its subcontractors, nor their principals are presently debarred, declared ineligible, or voluntarily excluded from participation in transactions with state or federal government by any department or agency of the state or federal government.
- D. Grantee must be an approved vendor with the Office of Management and Budget within the state of North Dakota as required by N.D.C.C. § 54-44.4-09.
- E. By drawing or otherwise obtaining funds pursuant to this Grant, Grantee assures that:
 - 1) Grantee is obligated to perform in accordance with the requirements of this Grant.

- 2) Proper financial management controls and accounting systems, to include personnel policies and procedures, have been established to adequately administer Federal awards and the funds drawn down.
- 3) By accepting this Grant, including the obligation, expenditure, or drawdown of award funds, recipient certifies as follows:
 - a. By applying for or accepting federal funds from US HHS, Grantee certifies compliance with all federal antidiscrimination laws and that complying with those laws is a material condition of receiving federal funding streams. Grantee is responsible for ensuring subrecipients, contractors, and partners also comply. Grantee hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964, as amended (codified at 42 U.S.C. 2000d et seq.), and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 CFR Part 80); Section 504 of the Rehabilitation Act of 1973, as amended (codified at 29 U.S.C. 794), and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 CFR Part 84); Title IX of the Education Amendments of 1972, as amended (codified at 20 U.S.C. § 1681 et seq.) and all requirements imposed by or pursuant to the Regulation of the Department of the Health and Human Services (45 CFR Part 86); The Age Discrimination Act of 1975, as amended (codified at 42 U.S.C. § 6101 et seq.), and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 CFR Part 91); and Section 1557 of the Patient Protection and Affordable Care Act, as amended (codified at 42 U.S.C. § 18116), and all requirements imposed by or pursuant to the Regulation of the Department of the Health and Human Services (45 CFR Part 92). For Programs that could implicate Title IX (i.e., awards to or for school, colleges, universities, 4-H programs, non-governmental organization (NGO) programs, sports programs, and education-related awards to prisons or other detention facilities).
 - b. Grantee is compliant with Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 et seq., including the requirements set forth in Presidential Executive Order 14168 titled Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government, and Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d et seq., and recipient will remain compliant for the duration of this Grant.

- c. The above requirements are conditions of payment that go to the essence of this Grant and are therefore material terms of this Grant.
 - d. Payments under this Grant are predicated on compliance with the above requirements, and therefore Grantee is not eligible for funding under this Grant or to retain any funding under this Grant absent compliance with the above requirements.
 - e. Grantee acknowledges that this certification reflects a change in the government's position regarding the materiality of the foregoing requirements and therefore any prior payment of similar claims does not reflect the materiality of the foregoing requirements to this Grant.
 - f. Grantee acknowledges that a knowing false statement relating to Grantee's compliance with the above requirements and/or eligibility for this Grant may subject Grantee to liability under the False Claims Act, 31 U.S.C. § 3729, and/or criminal liability, including under 18 U.S.C. § 287 and 18 U.S.C. § 1001.
- F. No Federal funds from this Grant will be paid by or on behalf of Grantee, to any person for influencing or attempting 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; the making of any Federal grant, the making of any Federal loan, the entering of any cooperative agreement; or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 1) If any grant funds other than Federal funds have been paid or will be paid to any person for influencing or attempting 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 this Federal contract, grant, loan, or cooperative agreement, Grantee agrees to complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - 2) Grantee shall require that the language of the Grantee Assurances in this Attachment be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall comply with these Grantee Assurances.