

Proof Alliance Recovery Supports Grant Contract Terms

III. BUDGET: Grantee must expend the Grant in accordance with the Grant amounts allocated to each specific line item in the budget worksheet in the Project Description.

(A) Any overrun on Salaries and Fringe line items requires prior approval from Proof Alliance and the State. Grantees may adjust budget items, other than Salaries and Fringe line items, without prior approval, unless the change will increase the line by more than 10%. Any line item increase exceeding 10% requires submission of a completed Budget Revision Form and letter of justification. Budget Revision Forms are to be submitted no later than six (6) weeks before the end of the relevant budget period which is May 19th.

(B) Reimbursement for travel and subsistence expenses actually and necessarily incurred by Grantee's performance of this grant contract shall be no greater amount than provided in the current Commissioner's Plan promulgated by the Commissioner of Minnesota Management and Budget. Grantee shall not be reimbursed for travel and subsistence expense incurred outside the State of Minnesota unless it has received prior written approval for such out of state travel from Proof Alliance.

(C) No more than ninety (90%) percent of the compensation due under this grant contract may be paid until the final product(s) of the contract has been reviewed by Proof Alliance and it has been determined that the Grantee had satisfactorily fulfilled all the terms of the contract.

IV. USE OF GRANT AMOUNTS: The Grant shall be used exclusively for the purposes set forth in the Project Description. The following conditions also apply:

(A) Grantee shall be an organization that is either (i) the United States or any state, the District of Columbia, a U.S. possession (including Puerto Rico), a political subdivision of a state or U.S. possession, or an Indian tribal government or any of its subdivisions that perform substantial government functions (collectively, a "governmental entity"), or (ii) both exempt from tax under 501(c)(3) of the Internal Revenue Code ("IRC") and an organization described in IRC 509(a)(1), (2), or (3) (i.e., a non-private foundation), or a private business. If Grantee is an organization pursuant to Section IV(A)(ii) hereof, Grantee's statuses shall have been duly confirmed by one or more operative IRS rulings or determination letters, copies of which Grantee has filed with Proof Alliance, and Grantee shall maintain such statuses during the entire Project Period and also remain in good standing with all state and local authorities.

(B) Grantee shall utilize the Grant funds only for activities consistent with statuses described in Section IV(A) hereof. Without limiting the generality of the preceding sentence, Grantee will not intervene in any election or support or oppose any political party or engage in any attempts to influence legislation (lobbying) not permitted by IRC 501(c)(3) or more specifically, if applicable, IRC 501(h) and 4911.

(C) Grantee shall inform Proof Alliance immediately of any change in, or IRS proposed or actual revocation (whether or not appealed) of, its statuses described in Section IV(A) hereof and changes in standing with all state and local authorities.

(D) The Grant is earmarked for the Project described in Article I hereof. With the exception of amounts explicitly set forth in the Project Description or as approved in writing by Proof Alliance, the Grant is not earmarked for transmittal to any other entity or person, even if Grantee's proposal or other correspondence expresses expenditure intentions. Rather, Grantee accepts and will discharge full control of the Grant and its disposition and responsibility for complying with this Agreement's terms and conditions.

(E) The Grant is restricted to the Project. Grantee affirms that the Project's budget worksheet in the Project Description accurately reflects Grantee's intentions to expend at least the amount of the Grant on the Project in Grantee's current fiscal year.

(F) Grantee shall perform all services pursuant to this Agreement to the satisfaction of Proof Alliance, as determined at the sole discretion of Proof Alliance's Authorized Representative, and in accordance with all applicable federal state, and local laws, ordinances, rules and regulations.

(G) GRANTEE its contractors and collaborators, must understand and adhere to guidelines on Federal regulations on confidentiality and other State and local laws, regulations, and reporting requirements, such as the Child Welfare Act of 1980 and the 2003 reauthorization of the federal Child Abuse Prevention and Treatment Act (CAPTA), Minnesota Reporting of Child Maltreatment of Minors statute 626.556, the Indian Child Welfare Act (ICWA) and Minnesota Indian Family Preservation Act (MIFPA) at Minnesota Statutes 260.751 to 260.835 and the Minnesota Tribal/State Indian Child Welfare Agreement.

(H) GRANTEE, its contracts and collaborators, must become familiar with Minnesota Rules, parts 9530.6405 to 9530.6505 (Rule 31), determine the applicability of the rule to their specific programming, and pursue licensing, if appropriate. You can obtain more information at <https://www.revisor.mn.gov/rules/?id=9530> (table of contents for Rule 9530). Program must be licensed or affiliated with a Rule 31 licensed program. Go to <http://www.dhs.state.mn.us/Licensing/ProgramLists/pdf/flcdt.pdf> (pdf list of R31 programs) for further details.

V. DISBURSEMENT OF GRANT AMOUNTS:

(A) Proof Alliance shall disburse Grant amounts as follows, provided that Proof Alliance reserves the right to delay or withhold a scheduled disbursement(s) of the Grant amounts if progress or reporting by Grantee on the Project is not satisfactory, if the Project requires less funding than originally budgeted, as determined in accordance with the narrative and financial reports submitted by Grantee in accordance with Article VIII, or if the State fails to make appropriations to Proof Alliance of the Grant (in the event that disbursements are not made to Grantee due to the State failing to appropriate amounts to Proof Alliance of the Grant, Grantee shall hold Proof Alliance harmless pursuant to Section XVIII(D) hereof). Satisfactory progress will be determined at the sole discretion of Proof Alliance's Authorized Representative and will be assessed as to whether the Project is meeting its stated goals within the Project Period, and receipt of timely narrative and financial reports in relation to the Project Description and Article VIII hereof. Unsatisfactory progress will be communicated to Grantee, and a plan to address any deficiencies in progress will be negotiated between the Proof

Alliance's Authorized Representative and Grantee's Authorized Representative. In the event that the parties cannot agree on a plan to address any deficiencies, or if Grantee fails to perform according to such plan, Proof Alliance shall have the right to terminate this Agreement pursuant to Article VI hereof (and Grantee shall hold Proof Alliance harmless pursuant to Section XVIII(D) hereof).

(B) Terms of Payment

(1) Reimbursements shall be made by Proof Alliance after Grantee's presentation of invoices for services performed and acceptance of such services by the Proof Alliance's Authorized Representative. Compensation will be monthly cost reimbursement based on the previous month's expenses as documented by receipts, invoices, travel vouchers, and time sheets not to exceed ninety percent (90%) of the fiscal year award at the end of Quarter 3. The final reimbursement will be paid upon approval of the final yearly reports.

Reimbursements are to be made within 45 days of receiving and approving Grantee's invoice, or whenever Proof Alliance receives payment from the state, whichever is later. Invoices shall be submitted on a monthly basis to Proof Alliance from the Grantee. Proof Alliance will receive the invoice by the 10th day of the month following the end of the month (i.e. for work conducted in April 2022, Proof Alliance should receive invoice by May 10, 2022).

VI. WITHHOLDING OF FUNDS; TERMINATION: Any use by Grantee of the Grant amounts for any purpose other than as specified herein will terminate Proof Alliance's obligation to make further payments under this Agreement. Proof Alliance, at its sole option, may terminate this Agreement immediately at any time, and Grantee shall hold Proof Alliance harmless for such termination pursuant to Section XVIII(D) hereof, if:

(A) Grantee breaches any of the conditions set forth in Section IV hereof;

(B) In Proof Alliance's sole discretion, Proof Alliance believes that Grantee becomes unable to carry out the purposes of the Project, ceases to be an appropriate means of accomplishing the purposes of the Project, or fails to comply with any conditions of this Agreement.

(C) The State of Minnesota cancels its agreement with Proof Alliance or otherwise fails to make appropriations to Proof Alliance of the Grant.

Either party may terminate this Agreement in the event that the other party breaches a material provision of this Agreement as follows: (i) the party believing that such a breach has occurred will give written notice of the breach to the breaching party; (ii) the breaching party will have 30 days from receipt of such written notice to cure such breach, to the reasonable satisfaction of the non-breaching party; and (iii) if the breach is not cured to the reasonable satisfaction of the non-breaching party, this Agreement shall terminate at the end of such 30-day period.

If this Agreement is terminated prior to the scheduled completion date, Grantee shall, at its sole expense, provide Proof Alliance a full accounting of the receipt and disbursement of amounts received and expenditures incurred under the Project as of the effective date of termination.

Upon termination, Proof Alliance may, in writing, request that Grantee cease further performance or incurring further costs under this Agreement. Unexpended Grant amounts held by Grantee shall be returned to Proof Alliance within five business days of the date of termination of this Agreement.

In the event that the State cancels its agreement with Proof Alliance because the State finds that Grantee has failed to comply with the provisions of this Agreement, that reasonable progress has not been made according to the Project Description, or that the purposes of the Grant have not been or will not be fulfilled, and the State takes action to protect the interests of the State, including the refusal to disburse additional funds or requiring the return of all or part of the funds already disbursed, Grantee shall be directly liable to the State for such funds, and Grantee shall indemnify and hold harmless Proof Alliance pursuant to Article XVIII of this Agreement. The State may require transfer of all equipment purchased with the Grant to the State or to an eligible non-State party named by the State. Grantee agrees to comply with any such requirement by the State, and Grantee shall indemnify Proof Alliance pursuant to Article XVIII of this Agreement with regard to such requirement.

VII. ACCOUNTING, AUDIT AND EXAMINATION BY LEGISLATIVE AUDITOR: Grantee shall maintain complete and accurate books, records, accounting records, and documents relating to this Agreement (collectively, the “records”), and shall retain such records for a period of not less than six years from the end of the Project Period. Grantee shall separately state the Grant in its books and accounting records. A systematic accounting record shall be kept by Grantee of the receipt of Grant amounts and disbursement of amounts and expenditures incurred under the Project Period, and substantiating documents such as bills, invoices, cancelled checks and receipts, shall be retained in Grantee’s files for a period of not less than six years from the end of the Project Period. Grantee agrees to promptly furnish Proof Alliance with copies of the records upon Proof Alliance’s request. In addition, Proof Alliance may audit (or have audited) Grantee’s records pertaining to this Agreement. Upon request and reasonable advance notice, Grantee shall permit Proof Alliance’s representatives (including but not limited to the State of Minnesota, the Minnesota Department of Human Services, Legislative Auditor and State Auditor) to enter the place where such records are kept during reasonable hours for purposes of inspecting, copying, and auditing such records. Grantee shall reasonably cooperate as requested with the audit.

VIII. REPORTING REQUIREMENTS: Grantee shall provide to Proof Alliance the following (the “Project progress reports”) relating to the Grant:

(A) Fiscal Reports/Invoice, which will detail expenditures from each line item of the grant contact budget for the previous month’s expenditures due the 10th day of the month after the end of the month. Final year-end Fiscal Report/Invoice must be submitted no later than July 15th for each budget year of the grant contract to ensure full payment.

(B) Mid-Year Program Reports, which detail the progress made toward fulfilling the grant contract work statement goals, due January 10th and June 15th of each budget year of the grant contract.

(C) A Year-End Program Report, which details the progress made toward fulfilling the grant contract work statement goals, objective and tasks during each 12 month state fiscal year, due June 15th of each budget year of the grant contract. This report will also include measurable outcomes for the previous year, including the following:

1. the number pregnant women served and
2. the number of toxic-free babies born.

(D) Such Project progress reports shall be retained in Grantee's files for a period of no less than six years after the expiration of the Project Period. Proof Alliance may, at its expense, monitor and conduct an evaluation of operations under the Project which may include visits by representatives of Proof Alliance to observe Grantee's Project program procedures and operations and to discuss the Project program with Grantee's personnel.

(E) Grantee also shall furnish the following items to Proof Alliance on an annual basis or as requested by Proof Alliance: (i) a copy of Grantee's annually audited financial statements or copies of any required filings with the Internal Revenue Service; (ii) a certificate of required insurance; and (iii) signed third-party contracts for services when initially executed and annually if requested (if not submitted as signed throughout the year). Audited financial statements of Grantee are due within two weeks of acceptance by Grantee's Board of Directors. Grantee Internal Revenue Service filings, if any, are due within two weeks of filing.

IX. DATA PRACTICES:

(A) All of the data created, collected, received, stored, used, maintained, or disseminated by Grantee or Proof Alliance under this Agreement, and this Agreement itself (collectively, the "Agreement Data") are subject to the requirements of the Minnesota Government Data Practices Act, Minn. Stat. Chapter 13 (the "Act"). Grantee agrees to comply with the Act with respect to the Agreement Data as if it were a government entity (as defined in the Act). Agreement Data is considered public information under the Act, unless it can be demonstrated that any given Agreement Data should not be treated as public information, including but not limited to that such Agreement Data is a "trade secret" pursuant to Minn. Stat. §13.37, subd. 1 or "nonpublic business data" pursuant to Minn. Stat. §13.591, subd. 1. Grantee understands that pursuant to Minn. Stat. §13.05, subd. 11, the remedies provided in §13.08 of the Act apply to Grantee. Additionally, the remedies of HIPAA apply to the release of data governed by HIPAA.

(B) In the event that Grantee receives a request for Agreement Data under the Minnesota Data Practices Act, Grantee agrees to notify Proof Alliance promptly upon such request. To the extent that Grantee either (1) discloses or (2) fails or refuses to disclose Agreement Data pursuant to such request, Grantee shall indemnify Proof Alliance pursuant to Article XVIII of this Agreement.

(C) Requests to Proof Alliance for Information.

(1) In the event that Proof Alliance receives a request for Agreement Data under the Minnesota Data Practices Act, Proof Alliance agrees to notify Grantee promptly upon such request. In the event that Grantee reasonably desires that certain Agreement Data requested not be disclosed, Grantee shall, within five (5) business days of Proof Alliance's notification to Grantee, give Proof Alliance notice requesting that Proof Alliance withhold specific Agreement Data from being disclosed. Such notice shall identify the specific Agreement Data that Grantee desires be withheld, and the statutory basis for claiming that such Agreement Data is not public information. In the event that Proof Alliance determines that Grantee's request is reasonable, Proof Alliance will not disclose such Agreement Data as specified in Grantee's notice; provided, however, that Grantee shall indemnify Proof Alliance pursuant to Article XVIII of this Agreement.

(2) In the event that Grantee does not notify Proof Alliance whether it should withhold specific Agreement Data from being disclosed, Proof Alliance shall make its own determination as to whether any information requested should be disclosed or not disclosed, and Grantee shall indemnify Proof Alliance pursuant to Article XVIII of this Agreement.

(D) Proof Alliance will not reimburse Grantee for any of Grantee's attorney's fees, costs, or any other expenses incurred in responding to Data Practices Act requests or requests for information from any government agency.

X. PUBLICITY: Any publicity given to the program, publications, or services provided resulting from this Agreement, including, but not limited to, notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for Grantee or its employees individually or jointly with others, or any subgrantees shall identify Proof Alliance and the State as the sponsoring agencies and shall not be released unless such release is explicitly set forth in the Project Description, or Grantee receives Proof Alliance' prior approval of such release. The Grantee will use the Proof Alliance logo and brand identify in materials, and will work closely with grants manager to meet the guidelines.

XI ENDORSEMENT: The Grantee must not claim that the State endorses its products or services.

XII. INSURANCE: Grantee, at its sole cost and expense, shall insure its activities in connection with this Agreement and obtain, keep in force and maintain insurance as follows:

(A) Comprehensive or Commercial Form General Liability Insurance (contractual liability included) with limits as follows:

(1) Each occurrence – \$2,000,000

(2) Products/completed operations aggregate – \$2,000,000

(3) Personal and Advertising Injury – \$2,000,000

(4) General Aggregate (not applicable to comprehensive form) – \$2,000,000

If the above insurance in (A) is written on a claims-made form, it shall continue for three years following termination of this Agreement or the end of the Project Period, whichever is later. The insurance must protect from claims for damages for bodily injury, including sickness or disease, death, and for h care and loos 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. The insurance shall have a retroactive date of placement prior to or coinciding with the effective date of this Agreement.

(B) Business Automobile Liability Insurance for owned, scheduled, non-owned or hired automobiles with a combined single limit no less than \$1,000,000 per occurrence if using automobiles in conducting the Project under this Agreement.

(C) Workers Compensation Insurance coverage pursuant to Minnesota Statutes Section 176.181, subd. 2.

(D) Commercial Blanket Bonding covering employee dishonesty (employee theft) with a limit no less than the amount of Grant amount provided by this Agreement in Grantee's possession at any time, covering all employees of Grantee, including coverage to protect money and securities as found in a Comprehensive Crime Policy.

(E) Such other insurance in such amounts which from time to time may be reasonably required by mutual consent of Proof Alliance and Grantee against other insurable risks relating to performance.

(F) Neither the issuance of any insurance policy required under this Agreement, nor the minimum limits specified herein with respect to Grantee's insurance coverage shall be deemed to limit or restrict Grantee's liability under this Agreement.

(G) Upon execution of this Agreement and annually thereafter, Grantee shall furnish certificates of insurance evidencing the insurance requirements stated herein and stating where applicable if coverages are written on an occurrence or claims-made basis. Grantee shall endeavor to name Proof Alliance as an additional insured on coverage (A) above. If Grantee's insurance provider refuses to name Proof Alliance as additional insured, evidence of this refusal shall be provided to Proof Alliance. Certificates shall further provide for 30 day advance written notice to Proof Alliance of any modification, change or cancellation of any of the above insurance coverages.

XIII. EFFECTIVE DATE: This Agreement shall be effective upon execution by both parties.

XIV. Proof Alliance'S AUTHORIZED REPRESENTATIVE: Proof Alliance's authorized representative responsible for administering this Agreement is Sara Messelt, Executive Director.

XV. GRANTEE'S AUTHORIZED REPRESENTATIVE: Grantee's representative responsible for Grantee's performance of the project is NAME ("Grantee's Authorized Representative"). In the event of such person's unavailability, another person as may be approved in advance in writing by Proof Alliance's Authorized Representative shall act as Grantee's Authorized Representative.

XVI. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS

(A) 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 the grant contract. Works includes "Documents." Documents are the originals of any data bases, 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.

(B) The STATE owns all rights, title, and interest in all of the intellectual property, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents

created and paid for under this grant contract. The Works and Documents will be the exclusive property of the STATE and all such Works and Documents must be immediately returned to the STATE by the GRANTEE upon completion or cancellation of this grant contract. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be “works made for hire.” If using STATE or Proof Alliance data, GRANTEE must cite the data, or make clear by referencing that STATE is the source.

(C) Responsibilities: Notification. Whenever any Works or Documents (whether or not patentable) are made or conceived for the first time or actually or constructively reduced to practice by the GRANTEE, including its employees and subcontractors, and are created and paid for under this grant contract, the GRANTEE will immediately give Proof Alliance’ Authorized Representative written notice thereof, and must promptly furnish the Authorized Representative with complete information and/or disclosure thereon. The GRANTEE will assign all right, title, and interest it may have in the Works and the Documents to the STATE.

(D) Filing and recording of ownership interests. The GRANTEE must, at the request of the STATE or Proof Alliance, execute all papers and perform all other acts necessary to transfer or record the STATE’S ownership interest in the Works and Documents created and paid for under this grant contract. The GRANTEE must perform all acts, and take all steps necessary to ensure that all intellectual property rights in these Works and Documents are the sole property of the STATE, and that neither GRANTEE nor its employees, agents, or subcontractors retain any interest in and to these Works and Documents.

(E) Duty not to Infringe on intellectual property rights of others. The GRANTEE represents and warrants that the Works and Documents created and paid for under this grant contract do not and will not infringe upon any intellectual property rights of other persons or entities. Notwithstanding Clause 10, the GRANTEE will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the STATE and Proof Alliance at the GRANTEE’S expense, from any action or claim brought against the STATE or Proof Alliance to the extent that it is based on a claim that all or part of these Works or Documents infringe upon the intellectual property rights of others. The GRANTEE will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the GRANTEE’S, Proof Alliance’, or the STATE’S opinion is likely to arise, the GRANTEE must, at Proof Alliance’ or the STATE’S discretion, either procure for the STATE the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of the STATE will be in addition to and not exclusive of other remedies provided by law.

XVII. CONFLICT OF INTEREST.

(A) Grantee represents and warrants that its staff, officers or directors (or Grantee’s equivalent thereof) are not, nor during the term of this Agreement will be, Relatives of any member of the staff or Board of Directors of Proof Alliance. For the purposes of this section, “Relative” is defined to mean all of the following individuals: spouses, domestic-partners-in-fact, parents, children, children’s spouses or children’s domestic-partners-in-fact, siblings, spouses or

domestic-partners-in-fact of siblings, aunts, uncles, first cousins, step-parents and step-children. “Domestic-partner-in-fact” is used with respect to those designated as the intended life partner of an individual or otherwise identified as being related to that individual through intended long term ties of love, affection, responsibility, and commitment common to those undertaken in marriages recognized by the State, regardless of whether such relationship is defined by or otherwise recognized by any governmental authority.

(B) The provisions of Section XVI(A) may be waived by Proof Alliance, in writing, in its sole discretion, following prompt disclosure by Grantee of any Relative relationship and the provision by Grantee to Proof Alliance of any other information regarding the relationships as Proof Alliance shall request or which would reasonably be seen as material to a determination by Proof Alliance of the significance of a potential conflict of interest.

XVIII INFORMATION PRIVACY AND SECURITY

(A) The GRANTEE and STATE must comply with the Minnesota Government Data Practices Act, Minnesota Statutes, ch. 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 the STATE under this grant contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the GRANTEE under this grant contract. The civil remedies of Minnesota Statutes, section 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minnesota Statutes, ch. 13, by either the GRANTEE or the STATE. Additionally, the remedies of HIPAA apply to the release of data governed by HIPAA. If the GRANTEE receives a request to release the data referred to in this clause, the GRANTEE must immediately notify and consult with the STATE’s Authorized Representative as to how the GRANTEE should respond to the request. The GRANTEE’s response to the request shall comply with applicable law.

(B) Information Covered by this Provision. In carrying out its duties, GRANTEE shall be handling one or more types of private information, collectively referred to as “protected information,” concerning individual clients of STATE programs or services. “Protected information,” for purposes of this grant contract, includes any or all of the following:

- a. Private data (as defined in Minnesota Statutes, section 13.02, subdivision 12), confidential data (as defined in Minnesota Statutes, section 13.02, subdivision 3), welfare data (as governed by Minnesota Statutes, section 13.46), medical data (as governed by Minnesota Statutes, section 13.384), and other non-public data governed elsewhere in the Minnesota Government Data Practices Act (MGDPA), Minnesota Statutes, chapter 13;
- b. Health records (as governed by the Minnesota Health Records Act [Minnesota Statutes, sections 144.291 – 144.298]);
- c. Chemical health records (as governed by 42 U.S.C. § 290dd-2 and 42 C.F.R. §§ 2.1 to 2.67);
- d. Protected health information (“PHI”) (as defined in and governed by the Health Insurance Portability Accountability Act [“HIPAA”], 45 C.F.R. § 160.103);
- e. Federal tax information (“FTI”) (as protected by 26 U.S.C. § 6103), and
- f. Other data subject to applicable state and federal statutes, rules, and regulations affecting the collection, storage, use, or dissemination of private or confidential information.

(C) General Oversight Responsibilities. GRANTEE shall be responsible for ensuring proper handling and safeguarding by its employees, subcontractors, and authorized agents of protected information collected, created, used, maintained, or disclosed on behalf of STATE. This responsibility includes:

- a. Training: Ensuring that employees and agents comply with and are properly trained regarding, as applicable, the laws listed in 12.1, and
- b. Minimum necessary access to information. GRANTEE shall comply with the “minimum necessary” access and disclosure rule set forth in the HIPAA and the MGDPA. The collection, creation, use, maintenance, and disclosure by GRANTEE shall be limited to “that necessary for the administration and management of programs specifically authorized by the legislature or local governing body or mandated by the federal government.” See, respectively, 45 C.F.R. §§ 164.502(b) and 164.514(d), and Minnesota Statutes, section 13.05 subdivision 3.
- c. Information Requests. Unless provided for otherwise in this grant contract, if GRANTEE receives a request to release protected information, GRANTEE must immediately notify STATE. STATE shall provide GRANTEE instructions or direction concerning the release of the data to the requesting party before the data is released. See paragraph 12.3(e) below regarding requests from individuals for their own data.

(D) Additional Duties to Ensure Proper Handling of Protected Information. The GRANTEE shall:

- a. Not use or disclose protected health information other than as permitted or required by this grant contract or as required by law;
- b. Use appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by this grant contract;
- c. As required at 45 C.F.R. §164.410, report to STATE any use or disclosure of protected health information that is not provided for by the grant contract of which GRANTEE becomes aware, including any breach of unsecured protected health information or any other “privacy” or “security incident” as described below. Upon direction from STATE, GRANTEE must also attempt to mitigate harmful effects resulting from the disclosure.
 - i. For purposes of this grant contract, “Security incident” means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. Security incident shall not include pings and other broadcast attacks on GRANTEE’s firewall, port scans, unsuccessful log-on attempts, denials of service, and any combination of the above; so long as such incidents do not result in unauthorized access, use or disclosure of STATE’s information. ”Privacy incident” means violation of the MGDPA and/or the HIPAA Privacy Rule (45 C.F.R. Part 164, Subpart E), including, but not limited to, improper and/or unauthorized use or disclosure of protected information, and incidents in which the confidentiality of the information maintained by it has been breached.
 - ii. The report to the STATE must be in writing and must be sent to STATE not more than seven (7) days after learning of such non-permitted use or disclosure. The report must, at a minimum:
 - 1) Identify the nature of the non-permitted use or disclosure;
 - 2) Identify the PHI used or disclosed;
 - 3) Identify who made the non-permitted use or disclosure, and who received the non-permitted or violating disclosure, if known;
 - 4) Identify what corrective action was taken or will be taken to prevent further non-permitted uses or disclosures;
 - 5) Identify what was done or will

be done to mitigate any deleterious effect of the non-permitted use or disclosure; and 6) Provide such other information, including any written documentation, as STATE may reasonably request.

iii. GRANTEE will provide notice required by 45 C.F.R. §§ 164.404 through 164.408 to affected individuals, news media, and/or the Office of Civil Rights, Department of Health and Human Services, only upon direction from and in coordination with the STATE.

d. In accordance with 45 C.F.R. §§ 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree in writing to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;

e. Within ten (10) business days of a request from an individual or their designee, make available protected health information in a designated record set, consistent with Minnesota Statutes, section 13.04, subd. 3, and 45 C.F.R. § 164.524;

f. Within ten (10) business days, forward any request to make any amendment(s) to protected health information in a designated record set to STATE in order for the STATE to satisfy STATE's obligations under Minnesota Statutes, section 13.04, subdivision 3 and 45 C.F.R. § 164.526;

g. Maintain and make available no later than fifteen (15) days after receipt of request from the STATE, the information required to provide an accounting of disclosures to the STATE as necessary to satisfy the STATE's obligations under 45 C.F.R. § 164.528, or upon request from STATE respond directly to individual's request for an accounting of disclosures;

h. To the extent the business associate is to carry out one or more of the STATE's obligation(s) under Subpart E of 45 C.F.R. Part 164, comply with the requirements of Subpart E that apply to the STATE in the performance of such obligation(s); and

i. Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

j. Business associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by STATE.

(E) STATE's Duties. STATE shall:

a. Only release information which it is authorized by law or regulation to share with GRANTEE.

b. Obtain any required consents, authorizations or other permissions that may be necessary for it to share information with GRANTEE.

c. Notify GRANTEE of limitation(s), restrictions, changes, or revocation of permission by an individual to use or disclose protected information, to the extent that such limitation(s), restrictions, changes or revocation may affect GRANTEE'S use or permitted disclosure of protected information.

d. Not request GRANTEE to use or disclose protected information in any manner that would not be permitted under law if done by STATE.

(F) Disposition and/or Retention of Protected Information/Data upon Completion, Expiration, or Contract Termination. Upon completion, expiration, or termination of this grant contract, GRANTEE shall return to STATE or destroy all protected information received or created on behalf of STATE for purposes associated with this grant contract. GRANTEE shall return the protected information to the STATE's Authorized Representative or provide the state with written certification of destruction of the protected information. GRANTEE shall retain no copies of such protected information, provided that if both parties agree that such return or

destruction is not feasible, or if GRANTEE is required by the applicable regulation, rule or statutory retention schedule to retain beyond the life of this grant contract, GRANTEE shall extend the protections of this grant contract to the protected information and refrain from further use or disclosure of such information, except for those purposes that make return or destruction infeasible, for as long as GRANTEE maintains the information.

(G) Sanctions. In addition to acknowledging and accepting the general terms set forth in this grant contract relating to indemnification, the parties acknowledge that violation of the laws and protections described above could result in limitations being placed on future access to protected information, in investigation and imposition of sanctions (including but limited to civil and criminal penalties) by, among other agencies, the U.S. Department of Health and Human Services, Office for Civil Rights; the federal Internal Revenue Service (IRS); the Centers for Medicare & Medicaid Services (CMS); and the Office of the Attorney General for the State Minnesota.

(H) Miscellaneous.

a. DHS Information Security Policy. Additional information regarding the handling and, as appropriate, destruction (upon expiration or termination of a grant contract) of protected information obtained from DHS is available at <https://edocs.dhs.state.mn.us/lfserver/Public/DHS-4683-ENG>.

b. Effect of statutory amendments or rule changes. The Parties agree to take such action as is necessary to amend this grant contract from time to time as is necessary for compliance with the requirements of the laws listed in paragraph 12.1 of this clause or in any other applicable law. However, any requirement in this grant contract or in the DHS Information Security Policy that is based upon HIPAA Rules or upon other federal or state information privacy or security laws means the requirement as it is currently in effect, including any applicable amendment(s), regardless of whether the grant contract has been amended to reflect the amendments(s).

c. Interpretation. Any ambiguity in this grant contract shall be interpreted to permit compliance with the laws listed in paragraph 12.1 of this clause or in any other applicable law.

d. Survival. The obligations of GRANTEE under this clause shall survive the termination of this grant contract.

XIX. RELATIONSHIP OF THE PARTIES:

(A) Independent Contractors. The parties to this Agreement are independent contractors. There is no relationship of agency, partnership, joint venture, employment or franchise between the parties. Neither party has the authority to bind the other or to incur any obligation on its behalf. Grantee shall not have, and shall not represent that it has, any power, right or authority to bind Proof Alliance, or to assume or create any obligation or responsibility, express or implied, on behalf of Proof Alliance or in Proof Alliance's name, except as herein expressly permitted. Grantee acknowledges and agrees that Grantee's employees and agents will not be considered Proof Alliance or State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of Grantee's employees and agents, and any claims made by any third party as a consequence of any act or omission on the part of Grantee's employees and agents shall in no way be Proof Alliance's or the State's obligation or responsibility, and Grantee shall indemnify Proof Alliance pursuant to Article XVIII hereof regarding the same.

(B) Taxes. Grantee acknowledges and agrees that any amount received under this Agreement is gross of any taxes, fees and levies of any nature whatsoever which may be imposed by any authority with jurisdiction over any amounts received by Grantee under this Agreement. Grantee shall be solely responsible for the payment of any and all such taxes, fees and levies associated with the Grant amounts. Grantee shall be deemed to be an independent contractor for all purposes. Neither Grantee nor any of its personnel shall be considered an agent, representative or employee of Proof Alliance for any purpose including, but not limited to, workers' compensation insurance, unemployment insurance, social security insurance, federal, provincial, state, and taxes and Proof Alliance employee benefits plans and coverages. In the event Proof Alliance is liable for any withholding taxes, unemployment compensation, workers' compensation, or other similar taxes or charges associated with Grantee's performance of this Agreement, Grantee agrees to repay Proof Alliance for all such taxes or charges. Internal Revenue Service (IRS) regulations require that any foreign person providing services in the United States for a fee complete a Form W-8. Proof Alliance may be required to withhold certain amounts in accordance with IRS requirements.

(C) Insurance; Licenses and Permits. Grantee shall be solely responsible for obtaining and any expense in obtaining any medical, dental, life, liability and all other insurance for Grantee for the term of this Agreement. Grantee understands that it is not covered by the insurance policies of Proof Alliance. Grantee shall be responsible for obtaining, at Grantee's sole expense, licenses and permits usual and necessary for performing the Project.

XX. REPRESENTATIONS AND WARRANTIES; INDEMNIFICATION:

(A) Representations and Warranties. Grantee represents and warrants that:

- (1) it has the full right and authority to enter into and perform in accordance with the provisions of this Agreement;
- (2) it shall perform the Project in accordance with the terms and conditions of this Agreement, with all applicable laws, the highest standards of its profession, and Proof Alliance's instructions;
- (3) all of Grantee's personnel are or shall be appropriately informed of the terms of this Agreement and are under legal obligation to Grantee, by contract or otherwise, sufficient to enable Grantee to fully comply with all provisions of this Agreement; and
- (4) the Project and any works or other Materials delivered pursuant to the terms of this Agreement will not infringe the patent, copyright, or other property rights of any individual or party when used by Proof Alliance or the State.

(B) Indemnification. Grantee hereby agrees to indemnify, defend and hold Proof Alliance and any of its employees, agents, officers, directors, or affiliates harmless from and against any and all costs, liabilities, losses, and expenses (including, but not limited to, reasonable attorneys' fees):

- (1) arising out of Grantee's alleged breach of any portion of this Agreement;
- (2) any negligent or willful conduct by Grantee or any Grantee employees and agents, or any claims made by any third party as a consequence of any act or omission on the part of Grantee's employees and agents;
- (3) any employer taxes arising in connection with any of Grantee's employees and agents;

- (4) any other acts of any Grantee employees or agents, unless such acts were at the request or instruction of Proof Alliance, whether or not such acts are performed on Proof Alliance premises;
- (5) based on allegations that the Project or Materials delivered pursuant to the terms of this Agreement infringe the patent, copyright, or other property rights of any individual or party;
- (6) arising out of Grantee's failure to return of all or part of the funds already disbursed pursuant to Article VI, or transfer of all equipment purchased with the Grant to the State or to an eligible non-State party named by the State pursuant to Article VI; or
- (7) arising out of Grantee's disclosure or non-disclosure, or Proof Alliance's disclosure or non-disclosure, of Agreement Data pursuant to Article IX hereof; or
- (8) arising out of claims made against Proof Alliance or the State relating to Section XVII(A) of this Agreement.

(C) Procedure for Indemnification. If a claim by a third party is made against Proof Alliance, and if Proof Alliance intends to seek indemnity with respect thereto under this Article XVIII, Proof Alliance shall promptly notify Grantee of such claim; provided, however, that failure to give timely notice shall not affect the rights of Proof Alliance so long as the failure to give timely notice does not materially adversely affect Grantee's ability to defend such claim against a third party. Grantee shall be entitled to settle or assume the defense of such claim, including the employment of counsel satisfactory to Proof Alliance, as provided below. If Grantee elects to settle or defend such claim, it shall notify Proof Alliance within thirty (30) days (but in no event less than twenty (20) days before any pleading, filing or response on behalf of the indemnified party is due) of its intent to do so. If Grantee elects not to defend such claim or fails to notify Proof Alliance of its election within thirty (30) days (or such shorter period provided above) after receipt of Proof Alliance's notice of a claim of indemnity hereunder, Proof Alliance shall have the right to contest, settle or compromise the claim without prejudice to any rights to indemnification hereunder. Regardless of which party is controlling the settlement or defense of any claim, (i) both Proof Alliance and Grantee shall act in good faith, (ii) Grantee shall not permit to exist any encumbrance upon any asset of Proof Alliance, (iii) Grantee shall permit Proof Alliance to participate in such settlement or defense through counsel chosen by Grantee, provided that all fees, costs and expenses of such counsel in an action controlled by Grantee shall be borne by Proof Alliance, unless Grantee and Proof Alliance have different available defenses to such third-party claim, in which case such fees, costs and expenses shall be borne by Grantee, (iv) no entry of judgment or settlement of a claim may be agreed to without the written consent of both Proof Alliance and Grantee, which consents shall not be unreasonably withheld, and (v) Grantee shall agree promptly to reimburse Proof Alliance for the full amount of such claim pursuant to this Article. So long as Grantee is reasonably contesting any such claim in good faith as permitted herein, Proof Alliance shall not pay or settle any such claim. The controlling party shall deliver, or cause to be delivered, to the other party copies of all correspondence, pleadings, motions, briefs, appeals or other written statements relating to or submitted in connection with the settlement or defense of any such claim, and timely notices of, and the right to participate pursuant to clause (iii) above in any hearing or other court proceeding relating to such claim. Each party hereto shall cooperate fully with the other party with respect to access to books, records, or other documentation within such party's control, if deemed reasonably necessary or appropriate by any party in the defense of any claim that may give rise to indemnification hereunder. Notwithstanding anything to the contrary in this Agreement, in the event that a

different procedure for indemnification is imposed by the State, Proof Alliance and Grantee shall follow such procedure.

(D) Limitation of Liability. Proof Alliance SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST REVENUES, OR LOST PROFITS, LOST PROSPECTIVE ECONOMIC ADVANTAGE, WHETHER FORESEEABLE AND WHETHER OR NOT BASED ON CONTRACT, TORT, WARRANTY CLAIMS OR OTHERWISE, ARISING FROM ANY PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, OR ARISING FROM THE STATE'S FAILURE FOR WHATEVER REASON TO APPROPRIATE THE GRANT TO Proof Alliance OR THE STATE'S TERMINATION OF ITS AGREEMENT WITH Proof Alliance, OR ANY OTHER STATE ACTION, AND GRANTEE HEREBY RELEASES AND WAIVES ANY CLAIMS AGAINST Proof Alliance REGARDING SUCH DAMAGES. IT IS AGREED THAT THESE LIMITATIONS ARE AN ESSENTIAL BASIS OF THE PARTIES' AGREEMENT.

XXI. ENTIRE AGREEMENT: This Agreement and Exhibit A, with any executed amendments, constitutes the entire Agreement between the parties with regard to the matters set forth and there are no other promises, either express or implied.

XXII 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.

XXIII HUMAN RIGHTS COMPLIANCE

(A) 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.

(B) Affirmative Action and Non-Discrimination requirements for all Grantees:

a. 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.

- b. 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
- c. 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.

(C) 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.

(D) 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.

(E) 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.

(F) 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 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 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.

XXIV. CONTINGENCY PLANNING:

Within 90 days of the execution of this grant contract, GRANTEE and any subcontractor will have a contingency plan. The contingency plan shall:

- (A) ensure fulfillment of Priority 2 obligations under this grant contract;
- (B) outline procedures for the activation of the contingency plan upon the occurrence of a governor or commissioner of the Minnesota Department of Health declared health emergency;
- (C) identify an individual as its Emergency Preparedness Response Coordinator (EPRC), the EPRC shall serve as the contact for the STATE with regard to emergency preparedness and response issues, the EPRC shall provide updates to the STATE as the health emergency unfolds;
- (D) outline roles, command structure, decision making processes, and emergency action procedures that will be implemented upon the occurrence of a health emergency;
- (E) provide alternative operating plans for Priority 2 functions;
- (F) include a procedure for returning to normal operations; and
- (G) be available for inspection upon request.

XXV. GENERAL:

(A) Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under the applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable under applicable law, such provision will be ineffective only to the extent of such invalidity, illegality, or unenforceability, without invalidating the remainder of this Agreement.

(B) Governing Law. This Agreement will be governed by and construed according to the laws of the State of Minnesota, excluding Minnesota's choice of law principles. The Minnesota federal courts and/or the state courts located in Ramsey County, Minnesota, United States, shall have exclusive personal and subject matter jurisdiction over, and the parties shall each submit to the venue of such courts with respect to any dispute pursuant to this Agreement, and all objections to such jurisdiction are hereby waived.

(C) Assignment. Grantee may not assign this Agreement (in whole or in part) without the prior written consent of Proof Alliance.

(D) Binding on Successors and Assigns; Third-Party Beneficiaries. This Agreement will bind and inure to the benefit of the parties and their respective successors and permitted assigns. This Agreement is not intended to, and does not create the right in any person as a third party beneficiary.

(E) Subcontracting. Grantee may not subcontract or delegate its performance hereunder in whole or in part, unless the subcontract is part of the Project Description.

(F) Amendment. This Agreement may be amended or supplemented only by a writing that refers explicitly to this Agreement and that is signed by both parties; provided, however, that notwithstanding the foregoing, Proof Alliance may, in its sole discretion and without the consent of Grantee, amend this Agreement to conform with any current or future agreement that Proof Alliance may have with the State.

(G) Waiver. No waiver will be implied from conduct or failure to enforce rights. No waiver will be effective unless in writing signed by the party against whom the waiver is asserted, and such waiver shall only be effective as to the particular act identified in the written waiver.

(H) Notices. Any notice or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given, when received, if delivered by hand or by facsimile, or three (3) working days after deposited, if placed in the U.S. mail for delivery by certified mail, return receipt requested, postage prepaid and addressed to the appropriate party at the addresses provided in the introductory paragraph on page one of this Agreement. Addresses may be changed by written notice given pursuant to this Section XX; however any such notice shall not be effective, if mailed, until three (3) working days after depositing in the U.S. mail or when actually received, whichever occurs first.

(I) Antitrust. Grantee hereby assigns to the State any and all claims for overcharges as to good and/or services in connection with this Agreement resulting from antitrust violations which arise under the antitrust laws of the United States and the antitrust laws of the State.