

**OHIO DEPARTMENT OF MEDICAID  
SUBGRANT AGREEMENT**

**G-2223-05-0063**

**RECITALS:**

This Subgrant Agreement among the Ohio Department of Medicaid (ODM), the Ohio Department of Health (ODH), the Ohio Department of Mental Health and Addiction Services (OhioMHAS), the Ohio Department of Developmental Disabilities (DODD), the Chancellor of the Ohio Department of Higher Education (the Chancellor), The Ohio Department of Aging (ODA), The Ohio Department of Education (ODE), (all agencies collectively referred to as THE STATE) and the Ohio State University, Office of Sponsored Programs on behalf of the Government Resource Center (OSU-GRC) is created pursuant to the Subgrant awarded by ODM to the Office of Sponsored Programs (SUBGRANTEE). SUBGRANTEE hereby accepts the Subgrant and agrees to comply with all the terms and conditions set forth in this Agreement.

This Subgrant is made pursuant to the Federal Award identified in Attachment A hereto.

**DEFINITIONS**

- A. For purposes of this Agreement, the terms “auditee,” “auditor,” “audit finding,” “Catalog of Federal Domestic Assistance (CFDA) number,” “Federal award,” “Federal awarding agency,” “Federal program,” “internal control,” “management decision,” “non-profit organization,” “Office of Management and Budget (OMB),” “pass-through entity,” “single audit,” “state,” and “subrecipient” have the same meanings as provided in Title 2 of the Code of Federal Regulations (CFR) Part 200, Subpart A of the OMB Uniform Guidance: Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, hereafter referred to as the “OMB Omni-Circular”.
- B. For purposes of this Agreement, the terms “equipment,” “HHS,” “HHS awarding agency,” “real property,” “subaward,” “subrecipient,” “supplies,” “suspension,” and “termination” have the same meanings as provided in Title 45, Part 75 of the CFR.

**ARTICLE I. PURPOSE**

In support of the efficient and effective administration of the Medicaid program, under the direction of ODM, SUBGRANTEE, ODH, DODD, OhioMHAS, ODHE, ODA, and ODE shall provide non-federal match funding for projects as designated in this Agreement. Operations under this Agreement shall include identification of projects to address predetermined questions of policy and research. SUBGRANTEE shall support ODM administration of the Medicaid Technical Assistance and Policy Program (MEDTAPP). SUBGRANTEE shall collaborate with ODM under the direction of the State Medicaid Director to identify and design projects to address predetermined questions of policy and research relevant to the effective and efficient administration of the Medicaid program. Such questions may relate to one or more of the following:

- 1.1.1 Health Services program evaluation and research
- 1.1.2 Health care quality improvement and patient safety
- 1.1.3 Health care and human services workforce development
- 1.1.4 Policy and data analysis to support efficient and effective administration of the Medicaid program
- 1.1.5 Rapid clinical consultation and technical assistance
- 1.1.6 Ohio Medicaid Quality Strategy
- 1.1.7 Projects per Ohio Medicaid request

The purpose of this Agreement is to consolidate into one agreement the roles and responsibilities of all parties. Each Task Order (defined below) shall be further identified, developed and executed during this Agreement effective period by ODM and/or SUBGRANTEE. The Task Order must specify- Rationale/Justification of Medicaid Applicability, Scope of Work, Methods, Project Timeline, Deliverables, Budget Amount, Allowable Non-Federal Match including all sources, in-kind and cash donations, Indirect Costs (primary or subcontractor/vendors), Primary and Secondary Contracts/Vendors, Role & Responsibilities, Data Needs and Data Sharing, Reporting Requirements, Specifications for Pertinent Rules, Regulations, and Other Applicable Mandatory Provisions. For purposes of this Agreement, a Task Order is a document authorizing specific tasks authorized and/or funded under this Agreement to be completed by Subgrantee or a subcontractor of SUBGRANTEE, utilizing ODM-approved format and content.

The SUBGRANTEE to whom this Agreement is awarded shall be deemed the subrecipient of the federal award received by ODM. Any provider, subcontractor, or subgrantee who receives funds from SUBGRANTEE under this Agreement is also considered a subrecipient of federal funds and must meet the requirements of OMB Omni-Circular, 2 CFR Part 200. SUBGRANTEE is required to conduct monitoring activities consistent with OMB Omni-Circular, 2 CFR Part 200 Subpart D and F for any provider, subcontractor, or subgrantee who receives funds from SUBGRANTEE under this Agreement.

## **ARTICLE II. RESPONSIBILITIES OF ODM**

### **A. Development and Inception.**

1. Strategy:
  - a. Develop ODM quality strategy with stakeholder input.
  - b. Support ODM Medicaid policy program direction.
2. Identify and/or initiate projects pursuant to ARTICLE I, 1.1.1 to 1.1.7.
3. Review, process, and execute agreements and Task Orders to initiate/implement projects pursuant to ARTICLE I, 1.1.1 to 1.1.7

### **B. Administrative.**

1. Create and apply Task Order deliverables in a way that will benefit the Medicaid program.
2. Evaluate SUBGRANTEE Task Order deliverables for approval before payment.
3. Evaluate approved invoices submitted by SUBGRANTEE before payment.
4. Inform SUBGRANTEE of reasons for rejection and of specifications for resubmission of Task Order deliverables.
5. Upon receipt of monthly valid invoices, provide payment to SUBGRANTEE for approved deliverables.
6. Ensure program and fiscal integrity and respond to CMS inquiries and audit needs.
7. Review and approve or reject SUBGRANTEE's MEDTAPP subcontractors (defined below) for reasonableness of cost and appropriateness of work including out of state conference attendance, all software, hardware and data files purchased. For purposes of this Agreement, a MEDTAPP subcontractor is a participating entity (a college, university, or vendor) who is funded / authorized through MEDTAPP to perform duties as specified in a contractual agreement between SUBGRANTEE and the entity. ODM agrees that all modifications to SUBGRANTEE's scope of work, including subcontractor's scope of work, will be done through a Task Order amendment.
8. ODM reserves the right to hold SUBGRANTEE and/or its MEDTAPP subcontractors subject up to a maximum non-refundable penalty of 10% of the total deliverable cost for late submission of a deliverable if the late submission is unauthorized by ODM.
9. Any data release or data sharing shall be role-based and project specific, and in accordance with state and federal regulations. Any requests for access to data will be directed by ODM and decisions about providing data to any parties will be at the sole discretion of ODM.
10. ODM reserves the right to hold SUBGRANTEE and/or its MEDTAPP subcontractors subject to a non-refundable penalty of up to \$100,000.00 per finding for unauthorized use of Medicaid data, in addition to any applicable HIPAA violations and penalties contained in the data use agreement between ODM and OSU-GRC, D-2223-05-0077, concurrent with the period of this Agreement. Instances may

include but not be limited to utilizing funded data approved for one project under this Agreement for another use without additional DUA or Task Order authorization.

**C. Funding.**

1. Ensure compliance with federal regulations for all funding, with special attention to the non-federal share of expenditures, including certified public expenditures and private donations.
2. Draw down eligible federal reimbursement. Additionally, ODM may apply available State Funds to other projects as needed for the efficient and effective administration of the Medicaid program(s).
3. Pass through federal reimbursement to SUBGRANTEE.
4. ODM shall establish fiscal and reporting requirements, and, upon receipt of properly completed and documented invoices, approve and reimburse SUBGRANTEE the federal and state share of the actual costs allowable under applicable federal, state and agency regulations and guidelines associated with SUBGRANTEE and its MEDTAPP subcontractors' duties and responsibilities. Monthly reports, covering project progress and subgrant activity status shall be submitted to ODM with the corresponding monthly invoice.
5. OSU-GRC will submit detailed invoices on a monthly basis in one of the following manners with a copy to the Agreement Manager:

**E-Mail:** [invoices@ohio.gov](mailto:invoices@ohio.gov) (the preferred file type for email attachments is pdf)

**Mail:** Ohio Shared Services  
PO Box 182880  
Columbus, OH 43218-2880

**Fax:** 614.485.1039

SUBGRANTEE agrees to use a mutually agreed upon invoice instrument and will include in each invoice:

- a. SUBGRANTEE full name and complete address
  - b. Agreement number and dates
  - c. Purchase order number
  - d. Amount and purpose of the invoice, including project name, task order number, and invoice number
  - e. Supporting documentation will be included for all invoiced expenses. Supporting documentation will include expense details, including direct and indirect expenses and facilities and administration charges as applicable. Supporting documentation will include detail for state and federal expenses.
  - f. Invoices will be submitted by the 20<sup>th</sup> of the month following the month of expense
  - g. Billing status reports – including status to match and explanation – will be submitted quarterly at the direction of the ODM Agreement Manager. Subgrantee will provide at least a 1:1 match and the match will reconcile at least on an annual, SFY, basis.
6. Within 30 calendar days of receiving an approved invoice, ODM shall reimburse SUBGRANTEE. SUBGRANTEE hereby waives the interest provisions of Section 126.30 of the Ohio Revised Code (ORC).

**D. Oversight.**

1. Provide standard assurances of program and fiscal integrity.

2. Create, and approve or terminate Task Orders.
3. Approve or reject Task Order deliverables.
4. Approve or reject requested re-budget to meet unanticipated requirements and limited program changes.
5. Publications:
  - a. Review and comment on publications, presentations or disseminations resulting from activities of this Agreement. Activities include but are not limited to Task Orders, funded projects or funded data from ODM or sponsored agencies. All agencies that co-fund or sponsor a project have review rights to assure accuracy with the scope of work and objectives of the data and/or the project. ODM and sponsored agencies will review and comment in a reasonable period of time and will not unreasonably withhold review and comment.
  - b. The intent of the review requirement for above-referenced articles is to verify that any data provided to researchers through the MEDTAPP agreement are accurately, appropriately described and analyzed, and that any discussions or references to federal/state regulations, state policies, directives, positions, or programs are factually correct and without contradiction to policy direction.
  - c. The intent of this review process is not to override or question clinical judgment or research objectivity or otherwise interfere with an institution's academic freedom to publish credible research. Information below gives circumstances/examples of materials intended for public dissemination that are subject to review and those that are not. The circumstances/examples listed are not all inclusive. Funded projects are encouraged to seek further guidance from the project office, the Government Resource Center (GRC), if other circumstances are not identified below.
  - d. Materials subject to review: Material intended for external use and public distribution to below outlets, using data provided to researchers through the MEDTAPP agreement, discussing or making references to federal/state regulations, state policies, directives, positions or programs, including but not limited to:
    - i. Journal article submissions,
    - ii. Media releases (includes all media outlets),
    - iii. Public presentations (e.g., conference), and
    - iv. Outlets intending for public distribution (e.g., website, or list serve).

If applicable, materials subject to review that issue statements, press releases, request for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with federal funds shall clearly state the dollar amount of federal funds for the project and percentage of the total costs of the project financed by the federal funds.
  - e. Materials not subject to review:
    - i. Materials intended for internal use and internal distribution to below outlets, including distribution to targeted members involved in the progress of the work/project, or as a part of student's credit/degree/course fulfillment requirements
      - a) Action period slides
      - b) Learning session materials, and

- c) Graduate theses, student term papers, class presentations as a part of credits/degree/courses requirements
  - ii. For public materials exempt from review guidelines discussed above, such as student theses, the following disclaimer concerning sponsor's role must be included at the appropriate and notable location of the body of the publication: "Views stated in this publication are those of the researchers only and are not to be attributed to the study sponsors, the Ohio Department of Medicaid, [other sponsor agencies,] or to the federal Medicaid Program [or other federal agency funding sponsor]."
  - f. ODM and co-sponsoring agencies shall have 30 calendar days to review and comment after receipt of material subject to review. Notwithstanding the preceding, if the parties disagree concerning whether certain information should be deleted or modified, the parties agree to meet for the purpose of making good faith efforts to discuss and resolve any issues or disagreements.
- E. The Agreement Manager for ODM is Elizabeth Truex-Powell, or successor, Office of Health Innovation and Quality, Ohio Department of Medicaid, 50 West Town Street, Columbus, Ohio 43215.

The ODM Agreement Manager may periodically communicate specific requests and instructions to SUBGRANTEE concerning the performance of activities described in this Agreement. SUBGRANTEE agrees to comply with any reasonable requests or instructions to the satisfaction of ODM within ten business days after SUBGRANTEE's receipt of the requests or instructions. ODM and SUBGRANTEE expressly understand that any requests or instructions will be strictly construed to ensure the successful completion of the Subgrant activities described in this Agreement, and are not intended to amend or alter this Agreement in any way. If SUBGRANTEE believes that any requests or instructions would materially alter the terms and conditions of this Agreement or the compensation stated hereunder, SUBGRANTEE will immediately notify ODM pursuant to the Notice provision of this Agreement. SUBGRANTEE agrees to consult with the ODM Agreement Manager as necessary to ensure understanding of the Subgrant activities and the successful completion thereof.

### ARTICLE III. RESPONSIBILITIES OF ODH

A. **Development and Inception.**

- 1. Identify projects of interest to ODM in support of the efficient and effective administration of the Medicaid program.
- 2. Secure ODM support and approval for ODH identified projects. The projects must align with ARTICLE I, 1.1.1 to 1.1.7

B. **Administrative.**

- 1. Ensure Task Order deliverables will benefit the Medicaid program.
- 2. Evaluate deliverables of Task Order(s) as defined under ARTICLE I, 1.1.1 to 1.1.7 that are sponsored by ODH to the satisfaction and financial approval of ODM.

C. **Funding.**

- 1. Provide non-federal match for ODH sponsored Task Order(s) as defined under ARTICLE I, 1.1.1 to 1.1.7 that are approved by ODM.
- 2. Provide allowable non-federal match to SUBGRANTEE as a part of the budget for ODH sponsored Task Order(s).
- 3. ODH shall commit to its share of the non-federal match for each project sponsored by multiple parties under this Agreement. Such match funds may not be used as match funds for any other program.

Before reimbursement, the program expenditures for which federal matching funds are claimed shall be made with nonfederal public funds or qualified in-kind contributions and bona fide donations.

4. None of the rights, duties and obligations described in this Subgrant Agreement shall be binding on ODH until all relevant statutory provisions of the Ohio Revised Code, including, but not limited to ORC 126.07, have been complied with, and until such time as all necessary funds are available or encumbered and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, or in the event that grant funds are used, until such time that ODH gives SUBGRANTEE written notice that such funds have been made available to ODH by ODH's funding source.

D. **Oversight.** Assure compliance with ODH standards per Task Order(s) as defined under ARTICLE I, 1.1.1 to 1.1.7 that are sponsored by ODH.

E. The Agreement Manager for ODH is Reena Oza-Frank, or successor, Bureau of Maternal and Child Health.

#### ARTICLE IV. RESPONSIBILITIES OF OhioMHAS

A. **Development and Inception.**

1. Identify projects of interest to ODM in support of the efficient and effective administration of the Medicaid program.
2. Secure ODM support and approval for OhioMHAS identified projects. The projects must align with ARTICLE I, 1.1.1 to 1.1.7.

B. **Administrative.**

1. Ensure Task Order deliverables will benefit the Medicaid program.
2. Evaluate deliverables of Task Order(s) as defined under ARTICLE I, 1.1.1 to 1.1.7 that are sponsored by OhioMHAS prior to submission for review and approval of ODM.

C. **Funding.**

1. Provide non-federal match for OhioMHAS sponsored Task Order(s) as defined under ARTICLE I, 1.1.1 to 1.1.7 that are approved by ODM.
2. Provide allowable non-federal match to SUBGRANTEE as a part of the budget for OhioMHAS sponsored Task Order(s).
3. OhioMHAS shall commit to its share of the non-federal match for each project sponsored by multiple parties under this Agreement. Such match funds may not be used as match funds for any other program. Before reimbursement, the program expenditures for which federal matching funds are claimed shall be made with nonfederal public funds or qualified in-kind contributions and bona fide donations.
4. None of the rights, duties and obligations described in this Subgrant Agreement shall be binding on OhioMHAS until all relevant statutory provisions of the Ohio Revised Code, including, but not limited to ORC 126.07, have been complied with, and until such time as all necessary funds are available or encumbered and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, or in the event that grant funds are used, until such time that OhioMHAS gives SUBGRANTEE written notice that such funds have been made available to OhioMHAS by OhioMHAS's funding source.

D. **Oversight.** Assure compliance with OhioMHAS standards per Task Order(s) as defined under ARTICLE I, 1.1.1 to 1.1.7 that are sponsored by OhioMHAS.

E. The Agreement Manager for OhioMHAS is Douglas Day, or successor, Office of Behavioral Health Policy.

## ARTICLE V. RESPONSIBILITIES OF DODD

### A. **Development and Inception.**

1. Identify projects of interest to ODM in support of the efficient and effective administration of the Medicaid program.
2. Secure ODM support and approval for DODD identified projects. The projects must align with ARTICLE I, 1.1.1 to 1.1.7.

### B. **Administrative.**

1. Ensure Task Order deliverables will benefit the Medicaid program.
2. Evaluate deliverables of Task Order(s) as defined under ARTICLE I, 1.1.1 to 1.1.7 that are sponsored by DODD prior to submission for review and approval of ODM.

### C. **Funding.**

1. Provide non-federal match for DODD sponsored Task Order(s) as defined under ARTICLE I, 1.1.1 to 1.1.7 that are approved by ODM.
2. Provide allowable non-federal match to SUBGRANTEE as a part of the budget for DODD sponsored Task Order(s).
3. DODD shall commit to its share of the non-federal match for each project sponsored by multiple parties under this Agreement. Such match funds may not be used as match funds for any other program. Before reimbursement, the program expenditures for which federal matching funds are claimed shall be made with nonfederal public funds or qualified in-kind contributions and bona fide donations.
4. None of the rights, duties and obligations described in this Subgrant Agreement shall be binding on DODD until all relevant statutory provisions of the Ohio Revised Code, including, but not limited to ORC 126.07, have been complied with, and until such time as all necessary funds are available or encumbered and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, or in the event that grant funds are used, until such time that DODD gives SUBGRANTEE written notice that such funds have been made available to DODD by DODD's funding source.

D. **Oversight.** Assure compliance with DODD standards per Task Order(s) as defined under ARTICLE I, 1.1.1 to 1.1.7 that are sponsored by DODD.

E. The Agreement Manager for DODD is Kimberly Hauck, or successor.

## ARTICLE VI. RESPONSIBILITIES OF THE CHANCELLOR

A. As requested by ODM, act as liaison with SUBGRANTEE and/or its MEDTAPP subcontractors for funded projects or a specific Task Order under this Agreement.

B. As requested by ODM, assist ODM in dispute resolution between SUBGRANTEE and/or its MEDTAPP subcontractors for funded projects or a specific Task Order under this Agreement.

### C. **Development and Inception.**

1. Identify projects of interest to ODM in support of the efficient and effective administration of the Medicaid program.
2. Assist ODM to identify projects that align with ARTICLE I, 1.1.1 to 1.1.7.

D. The Agreement Manager for the Chancellor is Charles See, or successor.

#### ARTICLE VII. RESPONSIBILITIES OF ODA

A. **Development and Inception.**

1. Identify projects of interest to ODM in support of the efficient and effective administration of the Medicaid program.
2. Secure ODM support and approval for ODA identified projects. The projects must align with ARTICLE I, 1.1.1 to 1.1.7

B. **Administrative.**

1. Ensure Task Order deliverables will benefit the Medicaid program.
2. Evaluate deliverables of Task Order(s) as defined under ARTICLE I, 1.1.1 to 1.1.7 that are sponsored by ODA to the satisfaction and financial approval of ODM.

C. **Funding.**

1. Provide non-federal match for ODA sponsored Task Order(s) as defined under ARTICLE I, 1.1.1 to 1.1.7 that are approved by ODM.
2. Provide allowable non-federal match to SUBGRANTEE as a part of the budget for ODA sponsored Task Order(s).
3. ODA shall commit to its share of the non-federal match for each project sponsored by multiple parties under this Agreement. Such match funds may not be used as match funds for any other program. Before reimbursement, the program expenditures for which federal matching funds are claimed shall be made with nonfederal public funds or qualified in-kind contributions and bona fide donations.
4. None of the rights, duties and obligations described in this Subgrant Agreement shall be binding on ODA until all relevant statutory provisions of the Ohio Revised Code, including but not limited to ORC 126.07, have been complied with, and until such time as all necessary funds are available or encumbered and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, or in the event that grant funds are used, until such time that ODA gives SUBGRANTEE written notice that such funds have been made available to ODA by ODA's funding source.

D. **Oversight.** Assure compliance with ODA standards per Task Order(s) as defined under ARTICLE I, 1.1.1 to 1.1.7 that are sponsored by ODA.

E. The Agreement Manager for ODA is Ashley Davis, or successor.

#### ARTICLE VIII. RESPONSIBILITIES OF ODE

A. **Development and Inception.**

1. Identify projects of interest to ODM in support of the efficient and effective administration of the Medicaid program.
2. Secure ODM support and approval for ODE identified projects. The projects must align with ARTICLE I, 1.1.1 to 1.1.7

B. **Administrative.**



1. Ensure Task Order deliverables will benefit the Medicaid program.
2. Evaluate deliverables of Task Order(s) as defined under ARTICLE I, 1.1.1 to 1.1.7 that are sponsored by ODE prior to submission for review and approval of ODM.

**C. Funding.**

1. Provide non-federal match for ODE sponsored Task Order(s) as defined under ARTICLE I, 1.1.1 to 1.1.7 that are approved by ODM.
2. Provide allowable non-federal match to SUBGRANTEE as a part of the budget for ODE sponsored Task Order(s).
3. ODE shall commit to its share of the non-federal match for each project sponsored by multiple parties under this Agreement. Such match funds may not be used as match funds for any other program. Before reimbursement, the program expenditures for which federal matching funds are claimed shall be made with nonfederal public funds or qualified in-kind contributions and bona fide donations.
4. None of the rights, duties and obligations described in this Subgrant Agreement shall be binding on ODE until all relevant statutory provisions of the Ohio Revised Code, including but not limited to ORC 126.07, have been complied with, and until such time as all necessary funds are available or encumbered and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, or in the event that grant funds are used, until such time that ODE gives SUBGRANTEE written notice that such funds have been made available to ODE by ODE's funding source.

D. **Oversight.** Assure compliance with ODE standards per Task Order(s) as defined under ARTICLE I, 1.1.1 to 1.1.7 that are sponsored by ODE.

E. The Agreement Manager for ODE is Stephanie Siddens or successor.

**ARTICLE IX. RESPONSIBILITIES OF THE SUBGRANTEE**

**A. Development and Inception.**

1. Develop and initiate project vendor selection process as approved by ODM (e.g., Request for Proposals, sole source procurement):
  - a. Identify and disclose vendor responsibilities as applicable.
  - b. Identify and disclose in writing in-kind or allowable cash contributions, including private donations, as applicable non-federal match.
  - c. Prior to the creation of a Task Order, disclose in writing any private donations or in-kind donations as non-federal match, including but not limited to bona fide donations in compliance with 42 CFR 433.54; ensure compliance with law and regulations, provide justifications including donors' identification and use of funds and any conflict of interest specifications; seek review and approval by ODM as applicable.
2. Execute agreement and fulfill Task Orders.

**B. Administrative.**

1. Act as fiscal agent to review, approve or reject invoices submitted by MEDTAPP subcontractors for funded projects or a specific Task Order under this Agreement.
2. Inform MEDTAPP subcontractors of reasons for rejection and of instructions for resubmissions.

3. Submit approved MEDTAPP subcontractor invoices to ODM for review, approval and reimbursement of federal and/or state share for payment, upon request.
4. Management:
  - a. Manage projects to assure completion of Task Order deliverables and produce project reports, deliverables, and invoices to ODM.
  - b. SUBGRANTEE acknowledges that OSU-GRC shall make necessary and adequate data available to its MEDTAPP subcontractors in support of projects covered under this Agreement and in compliance with D-2223-05-0077.
  - c. Assume responsibility for meeting overall Task Order deliverables and specifications.
  - d. Assume responsibility for vendors' conduct and compliance with financial and program integrity.
  - e. Provide project management, including monthly progress reports, invoices, and final products.
  - f. Work with MEDTAPP subcontractors to ensure modifications to scope of work, timeline or budget are made, in accordance with ODM approved task order amendments.
5. Consult with and obtain approval from ODM before determining whether or not to subcontract with vendors to provide Task Order deliverables. All subcontracts must comply with State subcontracting requirements, including, but not limited to, competitive bidding requirements and conflict of interest restrictions.
6. Act as fiscal intermediary and administrative agent for MEDTAPP subcontractors, including:
  - a. Submit SUBGRANTEE approved and properly documented invoices and deliverables to ODM for review, approval and payment.
  - b. Provide payment per Task Order timeline and specifications to MEDTAPP subcontractors.
  - c. Apply no more than 10% of the first \$25,000.00 of total direct cost for each approved Task Order sub-award for SUBGRANTEE facilities and administrative expenses (on those Task Orders in which SUBGRANTEE acts solely as fiscal agent), during the Agreement effective period.
7. Act as primary and principal developer and/or investigator for a Task Order or subcontract:
  - a. Disclose in writing to ODM its intent to enter a competitive bid or sole source contract prior to the creation of a Task Order.
  - b. Work with ODM to develop a RFP process for project costing more than \$50,000.00 as a way to ensure objectivity and no conflict of interest.
  - c. Submit SUBGRANTEE approved and properly documented invoices and deliverables to ODM for review, approval and payment.
  - d. SUBGRANTEE agrees that all modifications to SUBGRANTEE's scope of work, including subcontractor's scope of work, will be done through a task order amendment.
8. **Subcontracts.** SUBGRANTEE must consult with ODM concerning plans to subcontract tasks or projects under this Agreement. ODM may review such subcontracts for reasonableness of costs and type of work to be performed. SUBGRANTEE will provide ODM Contract Administrator with a copy of each executed subcontract, upon request, in excess of \$50,000.00. SUBGRANTEE is responsible to monitor, review and audit subcontracts.

9. **Requirements for Advanced Approval.**

- a. Prior to out-of-state travel or conference attendance by SUBGRANTEE and/or its MEDTAPP subcontractors, SUBGRANTEE will consult with ODM concerning the nature of, and cost of, each out-of-state travel plan and conference registration for an amount exceeding \$2,500.00.
- b. For equipment purchases by SUBGRANTEE and/or its MEDTAPP subcontractors which are expected to exceed \$5,000.00, SUBGRANTEE will obtain approval from ODM prior to the purchase. ODM will coordinate with SUBGRANTEE to bring all ODM owned property into ODM's physical possession at Agreement end or transfer title to SUBGRANTEE.

10. Unless prohibited by law or other agreement, or with approval from ODM, all software, hardware and data files purchased by SUBGRANTEE for use under this Agreement will remain the property of ODM. All other equipment purchased for over \$5,000.00 for use under this Agreement remains the property of ODM. ODM shall coordinate with SUBCONTRACTOR for bringing all ODM owned property into ODM's physical possession at agreement end unless ODM decides to transfer title to SUBGRANTEE. SUBGRANTEE shall provide equipment inventories, upon request, to account for the equipment purchased under this Agreement.

11. If a project or task described in this Agreement is transferred or reassigned from SUBGRANTEE to another entity, equipment related to that project or task may also be transferred at the request of ODM unless such equipment is needed to complete other ODM directed projects, under this Agreement.

12. **Program Management.**

- a. Provide ODM with a brief project plan inclusive of scheduled deliverable timelines up to the date of completion before the research commences. This plan/timeline is exclusive to the Task Order requirements.
- b. Provide ODM/DODD/ODH/OhioMHAS/ODHE/ODA progress reports and updates, content and format as required and approved by ODM for all deliverables. These updates should include, at a minimum:
  - (1) Any MEDTAPP expense activity related to the completion of the deliverable.
  - (2) Research stage on deliverable timeline.
  - (3) Notice of unmet requirements and/or if items will be modified from the delivery plan that may or may not result in a change in the scope of the project.
- c. Provide a response/reply within two business days (48 hours) either by telephone or email to any inquiry generated by ODM.
- d. Provide prior notification and mutually agree with ODM on any change of key project management staff. Project staffing changes must be of the same caliber or equivalent expertise and knowledge.

C. **Funding.** Identify and account for allowable non-federal share match, including in-kind match and private donations. Subgrantee will provide at least a 1:1 match.

1. For each program, SUBGRANTEE shall submit to ODM adequately documented invoices and deliverables for review, approval and reimbursement. These invoices shall identify total allowable costs during the time period billed. These invoices shall indicate the total program costs, verification of the non-federal match, program relationship to the federal grant and administrative costs. Claims for reimbursement must be based on actual allowable costs, not to exceed the budgeted costs approved by ODM. Invoices will include line item detail to show the total program cost and verification of the applicable match. Unless otherwise provided for in this Agreement, no more than

10% of total direct project costs can be requested as the administrative and facilities cost (indirect costs). When applying for federal projects other than the MEDTAPP FFP, the SUBGRANTEE's federally negotiated F&A rate will be used.

2. SUBGRANTEE, ODH, OhioMHAS, DODD, ODHE, ODA and ODE shall provide the non-federal match funds. Such matching may not be used for the purpose of matching any other program. Before reimbursement, the program expenditures for which federal matching funds are claimed shall be made with non-federal public funds or qualified in-kind contributions and bona fide donations.

D. **Oversight.** Assure appropriate time, quality, and financial accounting.

E. **Program Review.** Criteria will be mutually agreeable to parties specific to the task orders accompanied with weekly updates.

F. **Additional Provisions.** Applicable to SUBGRANTEE and its MEDTAPP subcontractors or vendor entities, per funded Task Order, project or funded data under this Agreement.

1. **Data Use and Management.** SUBGRANTEE acknowledges:

- a. It is OSU-GRC's duty to become familiar with and fully implement all requirements of the federal Health Insurance Portability and Accountability Act (HIPAA).
- b. It is OSU-GRC's duty to ensure that its MEDTAPP subcontractors/vendors become familiar with and fully implement all requirements of HIPAA.
- c. OSU-GRC shall comply with federal HIPAA and state confidentiality law for data use and management, including but not limited to access, storage, and transmission, shall be role-based, specific to project and Task Order, as determined by ODM.
- d. OSU-GRC and/or MEDTAPP subcontractors shall complete ODM Data Sharing and Confidentiality Agreements, if applicable.
- e. OSU-GRC shall perform validation upon receipt of monthly master data files, prior to its use or sharing with vendor/contractors, and that OSU-GRC shall report any anomalies and obtain clarifications from ODM.
- f. OSU-GRC shall not use any information, systems, or records made available for any purpose other than to fulfill the obligations specified herein.
- g. OSU-GRC shall ensure that no subcontractors will use any information, systems, or records made available for any purpose other than to fulfill the obligations specified herein.
- h. OSU-GRC's possession of information provided may be considered confidential or proprietary under the laws of the State of Ohio or under federal law. OSU-GRC agrees to promptly notify ODM of the receipt of any public records requests for information related to this Agreement in order to seek to have any confidential or proprietary information withheld from the document prior to its release.
- i. All data provided to OSU-GRC may only be used for the specific associated Task Order and for no other use in projects not associated with the Task Order. Any OSU-GRC's data release, sharing, or transfer beyond its initial approved scope and specifications will be considered as unauthorized.

2. **Presentation, Publications and Dissemination.** SUBGRANTEE will comply with Article II, Section D, Paragraph 5 above.

3. **Conflicts of Interest**

- a. Disclose funded projects and potential project interests pertinent to the scope of this Agreement, and obtain ODM prior approval for commission or production at the earliest possible opportunity should such effort present potential conflicts/associations with this Agreement. SUBGRANTEE shall not make any representations on behalf of ODM without ODM's prior express, written permission.
- b. Avoid self-interests including promoting university or medical provider products or services.

G. The Agreement Manager for SUBGRANTEE is Lorin Ranbom and Heather Robinson or successor(s).

**ARTICLE X. CONFIDENTIALITY OF INFORMATION**

A. SUBGRANTEE agrees that it shall not use any information, systems, or records made available to it for any purpose other than to fulfill the obligations specified herein. SUBGRANTEE specifically agrees to comply with state and federal confidentiality and information disclosure laws, rules, and regulations applicable to programs under which this Agreement exists, including, but not limited to:

- 1. United States Code, 42 USC 1320d through 1320d-8 (HIPAA);
- 2. Code of Federal Regulations, 42 CFR 431.300, 431.302, 431.305, 431.306, 435.945, 45 CFR 164.502(e), 164.504(e), and 162.100;
- 3. Ohio Revised Code, ORC 173.20, 173.22, 1333.61, 2305.24, 2305.251, 2305.252, 3701.243, 3701.028, 4123.27, 5101.26, 5101.27, 5160.39, 5160.45, 5168.13, and 5165.88; and
- 4. Corresponding Ohio Administrative Code rules.

B. SUBGRANTEE agrees that any data created, received, maintained or transmitted on behalf of ODM by SUBGRANTEE shall be returned to ODM not later than 90 calendar days following termination of this Agreement and shall certify that no copies of source data were retained by SUBGRANTEE, unless as may be otherwise provided for in this Agreement or by law.

C. SUBGRANTEE shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the paper and/or electronic protected personal data and health information that it creates, receives, maintains, or transmits on behalf of ODM against use or disclosure not provided for by this Agreement.

D. SUBGRANTEE agrees that access to the records and data provided by ODM for purposes of this Agreement will be restricted to only those authorized employees, officials, subcontractors, and other persons who need it to perform duties related to this Agreement. SUBGRANTEE agrees to provide the ODM Agreement Manager with a complete listing of any and all such persons who shall have access to the above referenced records and/or data.

E. SUBGRANTEE agrees that the above records and/or data and any records, reports, databases, and/or other derivative documents created from the information provided under this Agreement shall be stored in an area that is physically safe from access from unauthorized persons during duty and non-duty hours. Information provided under this Agreement shall be protected electronically to prevent unauthorized access by computer, remote access, or any other means. SUBGRANTEE expressly agrees that no records will be accessed, tested, maintained, backed up or stored outside of the United States.

F. SUBGRANTEE shall assure that all persons who have access to the above referenced information shall be fully apprised as to the confidential nature of the information, the safeguards required to protect the information, and the applicable civil and criminal sanctions and penalties associated with any intentional or non-intentional disclosure. No subcontractor shall receive any information without a written agreement with SUBGRANTEE incorporating these assurances.

G. SUBGRANTEE agrees that any information provided under this agreement that is proprietary shall be held to be strictly confidential by SUBGRANTEE.

- H. SUBGRANTEE shall not share or otherwise disclose any of the above referenced information to any third party without the express written authorization of the Director of ODM. If there is an incident of unauthorized disclosure of information, ODM must be notified in an acceptable timeframe to support regulatory requirements for breach notifications.
- I. SUBGRANTEE shall permit onsite inspection by the State of Ohio (including but not limited to ODM, the Auditor of the State of Ohio, the Inspector General of Ohio, the Ohio Attorney General or any duly authorized law enforcement officials) and by agencies of the United States government.
- J. ODM will prepare data pursuant to the security and encryption standards found in Ohio IT Standard ITS-SEC-01, Data Encryption and Cryptography; and NIST Special Publication 800-53. SUBGRANTEE shall prepare, store, and transmit all sensitive data relating to the state of Ohio in accordance with Ohio IT Standard ITS-SEC-01, Data Encryption and Cryptography; State of Ohio Administrative Policy IT-14, Data Encryption and Securing Sensitive Data; and NIST Special Publication 800-53.
- K. SUBGRANTEE shall comply with Ohio Administrative Policy IT-04, Use of Internet, E-mail and Other IT Resources, as well as any associated agency policies prior to gaining access to statewide and ODM IT resources.
- L. The express terms and conditions of this Article shall be included in all subcontracts executed by SUBGRANTEE for any and all work under this Agreement.

**ARTICLE XI. EFFECTIVE DATE OF THE SUBGRANT**

- A. This Agreement will be in effect from July 1, 2021 or upon issuance of a State of Ohio purchase order, whichever is later, through June 30, 2023, unless this Agreement is suspended or terminated prior to the expiration date.
- B. It is expressly understood by both ODM and SUBGRANTEE that this Agreement will not be valid and enforceable until the Director of the Office of Budget and Management, State of Ohio, first certifies, pursuant to ORC 126.07, that there is a balance in the appropriation not already allocated to pay existing obligations. The ODM Agreement Manager will notify SUBGRANTEE when this certification is given.

**ARTICLE XII. AMOUNT OF SUBGRANT/PAYMENTS**

- A. The total amount of the Subgrant is Seventy-Six Million, Seventy-Seven Thousand, Eight Hundred Eighty-Seven and 93/100 Dollars (\$76,077,887.93). ODM will provide SUBGRANTEE with combined federal, state, and grant funds in an amount up to Forty-Four Million, Six Hundred Forty-Five Thousand, Six Hundred Twenty-Two and 90/100 Dollars (\$44,645,622.90) for State Fiscal Year (SFY) 2022, and in an amount up to Thirty-One Million, Four Hundred Thirty-Two Thousand, Two Hundred Sixty-Five and 03/100 Dollars (\$31,432,265.03) for SFY 2023. The Subgrant shall be paid as follows:

| <b>Funding Source</b> | <b>SFY 2022</b>        | <b>SFY 2023</b>        | <b>Total</b>           |
|-----------------------|------------------------|------------------------|------------------------|
| ODM State Funds       | \$9,166,360.30         | \$6,108,502.72         | \$15,274,863.02        |
| ODM FFP               | \$35,479,262.60        | \$25,323,762.31        | \$60,803,024.91        |
| <b>Total</b>          | <b>\$44,645,622.90</b> | <b>\$31,432,265.03</b> | <b>\$76,077,887.93</b> |

It is understood that allowable non-federal share of all costs, including allowable in-kind contributions and certified private match, are the responsibility of SUBGRANTEE for non-federal share of projects. ODM, ODH, OhioMHAS, DODD, ODHE, ODA and ODE may supplant the non-federal share of cost to meet federal requirements.

SUBGRANTEE hereby waives the interest provisions of ORC 126.30.

- B. Pursuant to ARTICLE I, a Task Order shall be developed, defined, ODM approved, and executed within the effective period and the allowable budget of this Agreement. Compensation will be made as reimbursement for actual expenditures incurred and paid by SUBGRANTEE during the billing period pursuant to ODM approved budget or cost proposal. Upon receipt of an approved invoice, ODM will reimburse SUBGRANTEE the administrative Federal Medical Assistance Percentage (FMAP). Reimbursement of the federal share of

costs must identify total costs as allowable in 2 CFR Parts 215 and 220 (formerly OMB Circulars A-110 and A-21) during the time period billed. Invoices shall indicate the total program costs, verification of the non-federal match, program relationship to the federal grant and administrative costs. Invoices will include line item detail to show the total program costs and verification of the applicable match. Claims for reimbursement must be based on actual allowable costs, not to exceed the budgeted costs.

- C. SUBGRANTEE shall prepare approved invoices and deliverables for review, approval and reimbursement as defined in this Agreement, to ODM Agreement Manager and ODM Agreement Administrator, Helena Times or successor, Ohio Department of Medicaid, 50 W. Town Street, Columbus, Ohio 43215.
- D. As a subrecipient of federal funds, SUBGRANTEE hereby specifically acknowledges its obligations relative to the funds provided under this Agreement pursuant to 45 CFR Part 75, as well as OMB Omni-Circular, 2 CFR Part 200.104, as applicable to SUBGRANTEE, including but not limited to the following federal rules:
1. **Standards for financial management systems.** SUBGRANTEE and its subgrantee(s) shall comply with the requirements of 45 CFR 75.302, including, but not limited to:
    - a. Fiscal and accounting procedures;
    - b. Accounting records;
    - c. Effective internal control over cash, real and personal property, and other assets;
    - d. Budgetary control to compare actual expenditures or outlays to budgeted amounts;
    - e. Source documentation and cash management; and
    - f. Written procedures to implement the requirements of 45 CFR 75.305.
  2. **Period of Availability of Funds.** Pursuant to 45 CFR 75.309, SUBGRANTEE and its subgrantee(s) may charge to the award only allowable costs resulting from obligations incurred during the funding period specified in the Recitals section of this Agreement. All obligations incurred under the award must be liquidated no later than 90 calendar days after the end of the funding period unless otherwise specified herein.
  3. **Matching or Cost Sharing.** Matching or cost sharing requirements applicable to the federal program must be satisfied by allowable costs incurred or third party in-kind contributions, as provided in 45 CFR 75.306, and subject to the qualifications, exceptions, and requirements of that section.
  4. **Program Income.** Program income, as defined in 45 CFR 75.307, must be used as specified in this section.
  5. **Real Property.** If SUBGRANTEE is authorized to use Subgrant funds for the acquisition of real property, title, use, and disposition of the real property shall be governed by the provisions of 45 CFR 75.318.
  6. **Equipment.** Title, use, management (including record keeping, internal control, and maintenance), and disposition of equipment acquired by SUBGRANTEE or its subgrantee(s) with Subgrant funds shall be governed by the provisions of 45 CFR 75.320 until it is returned to ODM or titled to SUBGRANTEE.
  7. **Supplies.** Title and disposition of supplies acquired by SUBGRANTEE or its subgrantee(s) with Subgrant funds shall be governed by the provisions of 45 CFR 75.321.
- E. SUBGRANTEE expressly understands that ODM will not compensate SUBGRANTEE for any work performed prior to SUBGRANTEE's receipt of notice from the ODM Agreement Manager that the provisions of ORC 126.07 have been met as set forth in ARTICLE IX, nor for work performed after the ending date of this Agreement. The project start date coincides with signature date of ODM Director on all Task Orders and compensation may not be requested for work completed prior to such date, except as directed by ODM.

- F. SUBGRANTEE expressly understands that ODM does not have the ability to compensate SUBGRANTEE for invoices submitted after the State of Ohio purchase order has been closed. SUBGRANTEE must submit final invoices for payment no later than 90 calendar days after the ending date of this Agreement. Failure to do so will be deemed a forfeiture of the remaining compensation due hereunder.
- G. SUBGRANTEE understands that availability of funds is contingent on appropriations made by the Ohio General Assembly or by funding sources external to the State of Ohio, such as federal funding. If the Ohio General Assembly or the external funding source fails at any time to continue funding ODM for the payments due under this Agreement, this Agreement will be terminated as of the date funding expires without further obligation of ODM or the State of Ohio.

### **ARTICLE XIII. AUDITS OF SUBGRANTEE**

- A. Subject to the threshold requirements of 45 CFR 75.501 and OMB Omni-Circular, 2 CFR 200.501, SUBGRANTEE must have an entity-wide single audit. SUBGRANTEE must send one copy of every audit report to ODM, Audit Performance Section at 50 West Town Street, Columbus, Ohio 43215, within two weeks of the SUBGRANTEE's receipt of any such audit report.
- B. SUBGRANTEE has additional responsibilities as an auditee under 45 CFR 75.508, et seq., and OMB Omni-Circular, 2 CFR 200.508, et seq., that include, but are not limited to:
  - 1. Proper identification of federal awards received;
  - 2. Maintenance of required internal controls;
  - 3. Compliance with all state and federal laws, and regulations, and with all provisions of contracts, grant agreements, or subgrant agreements that pertain to each of its federal programs;
  - 4. Procuring or otherwise arranging for the audit required by this Article in accordance with 2 CFR 200.509, and ensuring it is properly performed and submitted when due in accordance with 2 CFR 200.512;
  - 5. Preparation of appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR 200.510;
  - 6. Promptly follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan in accordance with 2 CFR 200.511; and
  - 7. Provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by this Article.

### **ARTICLE XIV. SUSPENSION AND TERMINATION, BREACH AND DEFAULT**

- A. This Agreement shall automatically terminate upon expiration of the time period in ARTICLE III, or upon completion of performance, or once all of the compensation has been paid.
- B. Upon a 30 calendar day written notice to the other party, either party may terminate this Agreement. Upon written notice to SUBGRANTEE, at the sole discretion of ODM, this Agreement may be suspended.
- C. Notwithstanding the provision of Section A or B, above, ODM may suspend or terminate this Agreement immediately upon delivery of a written notice to SUBGRANTEE if:
  - 1. ODM loses funding as described in ARTICLE IV;
  - 2. ODM discovers any illegal conduct by SUBGRANTEE; or
  - 3. SUBGRANTEE has violated any provision of ARTICLE XI.



- D. SUBGRANTEE, upon receiving notice of suspension or termination, will:
1. Cease performance of the suspended or terminated Subgrant activities;
  2. Take all necessary steps to limit disbursements and minimize costs including, but not limited to, suspending or terminating all contracts and subgrants related to suspended or terminated Subgrant activities;
  3. Prepare and furnish a report to ODM, as of the date the notice of termination or suspension was received, that describes the status and percentage of completion of all Subgrant activities and includes the results accomplished and the conclusions reached through Subgrant activities;
  4. Deliver, or return as prescribed by ODM, all records in their native format relating to cost, work performed, supporting documentation for invoices submitted to ODM, and deliver any and all materials or work produced under or pertaining to this Agreement whether completed or not; and
  5. Perform any other tasks ODM requires.
- E. In the event of suspension or termination under this Article, ODM will, upon receipt of a proper invoice from SUBGRANTEE, determine the amount of any unpaid Subgrant funds due to SUBGRANTEE for Subgrant activities performed before SUBGRANTEE received notice of termination or suspension. In order to determine the amount due to SUBGRANTEE, ODM will base its calculations on the payment method described in ARTICLE IV and any funds previously paid by or on behalf of ODM. ODM will not be liable for any further claims submitted by SUBGRANTEE.
- F. Upon SUBGRANTEE's breach or default of provisions, obligations, or duties embodied in this Agreement or any term of an award, a federal statute or regulation, an assurance, a State plan or application, a notice of award, or other applicable rule, ODM reserves the right to exercise any administrative, contractual, equitable, or legal remedies available without limitation. Any waiver by ODM of an occurrence of breach or default is not a waiver of subsequent occurrences. If ODM or SUBGRANTEE fails to perform any obligation under this Agreement and the other party subsequently waives the failure, the waiver will be limited to that particular occurrence of a failure and will not be deemed to waive other failures that may occur. Waiver by ODM will not be effective unless it is in writing signed by the ODM Director.

#### **ARTICLE XV. NOTICES**

- A. ODM and SUBGRANTEE agree that communication regarding Subgrant activities, scope of work, invoice or billing questions, or other routine instructions will be between SUBGRANTEE and the identified ODM Agreement Manager.
- B. Notices to ODM from SUBGRANTEE that concern changes to SUBGRANTEE's principal place of operation, billing address, legal name, federal tax identification number, mergers or acquisitions, corporate form, excusable delay, termination, bankruptcy, assignment, any notice pursuant to ARTICLE XI, and/or any other formal notice regarding this Agreement will be sent to the ODM Chief Counsel, 50 West Town Street, Columbus, Ohio 43215.
- C. Notices to SUBGRANTEE from ODM concerning termination, suspension, option to renew, breach, default, or other formal notices regarding this Agreement will be sent to SUBGRANTEE's representative at the address appearing on the signature page of this Agreement.
- D. All notices will be in writing and will be deemed given when received. All notices must be sent using a delivery method that documents actual delivery to the appropriate address herein indicated (e.g., certified mail).

#### **ARTICLE XVI. RECORDS, DOCUMENTS AND INFORMATION**

SUBGRANTEE agrees that all records, documents, writings, and other information, created or used pursuant to this Agreement will be treated according to the following terms, and that the terms will be included in any subgrant agreements executed for the performance of Subgrant Activities relative to this Agreement:

- A. ODM agrees that any media (including documents, reports, data, photographs, and electronic reports and records) produced pursuant to this Agreement or acquired with Subgrant funds will become the property of SUBGRANTEE. However, SUBGRANTEE is required to obtain ODM prior approval for release of any results, including preliminary and/or final results, related to funded projects or funded data under this Agreement, and any documents, reports, data, photographs (including negatives), electronic reports and records, and other media under this Agreement. Additionally, SUBGRANTEE grants to ODM a perpetual royalty-free, nonexclusive, and irrevocable license to use, reproduce, publish, modify, and distribute any such media[, and to authorize others to use for state or federal purposes:
1. The copyright in any work developed in whole or part with funds provided pursuant to this Subgrant; and
  2. Any rights of copyright SUBGRANTEE purchases in whole or in part with funds provided pursuant to this Subgrant.

SUBGRANTEE also agrees that all materials and items produced under this Agreement will be made freely available to the general public unless ODM determines that, pursuant to federal and state laws, such materials are confidential.

- B. All ODM information that is classified as public or private under Ohio law and ODM rules will be treated as such by SUBGRANTEE. Should the nature of any information be in question, ODM will determine whether the information is public or private. SUBGRANTEE will restrict the use of any information, systems, or records ODM provides to the specific Subgrant activities of this Agreement. SUBGRANTEE and its employees agree to be bound by the same standards and rules of confidentiality that apply to employees of ODM and the State of Ohio. SUBGRANTEE agrees that the terms of this Section B will be included in any contract or subgrant executed by SUBGRANTEE for work under this Agreement.
- C. SUBGRANTEE information that is proprietary and has been specifically identified by SUBGRANTEE as proprietary will be held as confidential by ODM. Proprietary information is information that would put SUBGRANTEE at a competitive disadvantage in SUBGRANTEE's market place and trade if it were made public. ODM reserves the right to require reasonable evidence of SUBGRANTEE's assertion of the proprietary nature of any information. The provisions of this Article are not self-executing. SUBGRANTEE must demonstrate that any information claimed as proprietary meets the definition of "trade secrets" found at ORC 1333.61, and shall defend such a claim.
- D. For Audit Purposes Only: All records relating to cost, work performed, supporting documentation for invoices submitted to ODM, and copies of all materials produced under or pertaining to this Agreement will be retained by SUBGRANTEE and will be made available for audit by state and federal government entities that include, but not limited to, ODM, the Ohio Auditor of State, the Ohio Inspector General and all duly authorized law enforcement officials. The records and materials will be retained and made available for a minimum of three years after SUBGRANTEE receives the last payment pursuant to this Agreement. If an audit or similar action is initiated during this time period, SUBGRANTEE will retain the records until the action is concluded and all issues are resolved, or until the end of the three-year period if the action is resolved prior to the end of the three-year period, unless otherwise directed below in Section E of this Article. If applicable, SUBGRANTEE must meet the requirements of the OMB Omni-Circular, 2 CFR Part 200, Subpart D and F. SUBGRANTEE acknowledges, in accordance with ORC 149.43, that financial records related to the performance of services under this Agreement are presumptively deemed public records.
- E. All records relating to cost, work performed, supporting documentation for invoices submitted to ODM, and copies of all materials produced under or pertaining to this Agreement will be retained by SUBGRANTEE in accordance to the appropriate records retention schedule. The appropriate records retention schedule for this Agreement is five (5) years. If any records are destroyed prior to the date as determined by the appropriate records retention schedule, SUBGRANTEE agrees to pay all costs associated with any cause, action or litigation arising from such destruction.
- F. SUBGRANTEE agrees to retain all records in accordance to any litigation holds that are provided to them by ODM, and actively participate in the discovery process if required to do so, at no additional charge. Litigation holds may require SUBGRANTEE to keep the records longer than the approved records retention schedule. SUBGRANTEE will be notified by ODM when the litigation hold ends and retention can resume based on the approved records retention schedule. If SUBGRANTEE fails to retain the pertinent records after receiving a

litigation hold from ODM, SUBGRANTEE agrees to pay all costs associated with any cause, action or litigation arising from such destruction.

- G. SUBGRANTEE hereby agrees to current and ongoing compliance with Title 42, Section 1320d through 1320d-8 of the United States Code (42 USC 1320d -1320d-8) and the implementing regulations found at 45 CFR 164.502(e) and 164.504(e) regarding disclosure of Protected Health Information under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). SUBGRANTEE further agrees to include the terms of this Section in any subgrant agreements that may be executed pursuant to this Agreement.

#### **ARTICLE XVII. AMENDMENT, ASSIGNMENT, AND SUBAWARD**

- A. **Amendment.** This writing constitutes the entire agreement between ODM and SUBGRANTEE with respect to all matters herein. Only a writing signed by both parties may amend this Agreement. However, ODM and SUBGRANTEE agree that any amendments to any laws or regulations cited herein will result in the correlative modification of this Agreement without the necessity for executing written amendments. Any written amendment to this Agreement will be prospective in nature.
- B. **Assignment of Interests.** SUBGRANTEE agrees not to assign any interest in this Agreement nor transfer any interest in the Subgrant without the prior written approval of ODM. SUBGRANTEE will submit any requests for approval of assignments and transfers to the ODM Agreement Manager at least ten calendar days prior to the desired effective date. SUBGRANTEE understands that any assignments and transfers will be subject to any conditions ODM deems necessary and that no approval by ODM will be deemed to provide for any ODM obligation that exceeds the Subgrant amount specified in ARTICLE IV of this Agreement.
- C. **Subawards.**
1. **Subgrants.** Any subgrants by SUBGRANTEE will be made in accordance with 45 CFR 75.352.
  2. **Debarment and Suspension.** As provided in 45 CFR 75.213, SUBGRANTEE and its subgrantees must not make any award or permit any award at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.
  3. **Procurement.** While SUBGRANTEE and its subgrantees may use their own procurement procedures, the procedures must conform to all applicable federal laws, including 45 CFR 75.327 through 45 CFR 75.335. In the event of conflict between federal, state, and local requirements, the most restrictive must be used.
  4. **Monitoring.** SUBGRANTEE must manage and monitor the routine operations of Subgrant supported activities, including each project, program, subaward, and function supported by the Subgrant, to ensure compliance with all applicable federal requirements, including 45 CFR 75.342.
- D. **Duties as Pass-through Entity.** In the event that SUBGRANTEE subgrants federal funds received under this Agreement to a government or non-profit organization, SUBGRANTEE, as a pass-through entity, must follow the procedures and requirements specified in 2 CFR 200.331, and must perform duties including, but not limited to:
1. Inform each subrecipient of the proper identification of the federal awards received pursuant to 2 CFR 200.331(a)(1). When some of this information is not available, SUBGRANTEE will provide the best information available to describe the federal award.
  2. Advise subrecipients of requirements imposed on them by federal laws, regulations, and the provisions of contracts or subgrant agreements as well as any supplemental requirements imposed by the ODM and any subsequent pass-through entity.
  3. Monitor the activities of subrecipients as necessary to ensure that federal awards are used for authorized purposes in compliance with all applicable federal and state laws and regulations, and the provisions of contracts or subgrant agreements and that all performance goals are achieved.

4. Ensure that subrecipients expending Seven Hundred Fifty Thousand and 00/100 Dollars (\$750,000.00) or more in federal awards during the subrecipient's fiscal year have met the audit requirements of this Agreement for that fiscal year. One copy of every audit report must be sent to ODM, Audit Performance Section at 50 West Town Street, Columbus, Ohio 43215, within two weeks of the subrecipient's receipt of any such audit report.
5. Determine whether subrecipients spent federal assistance funds provided in accordance with applicable laws and regulations;
6. Issue a management decision on audit findings within six months after receipt of the subrecipient's audit report and ensure that the subrecipient takes appropriate and timely corrective action.
7. Consider whether subrecipient audits necessitate adjustment of the pass-through entity's own records.
8. Require each subrecipient to permit ODM, any other state or government entity, and federal and state auditors to have access to the records and financial statements as necessary for the pass-through entity to comply with this Section.
9. Ensure that any subgrant agreement includes the approved indirect cost rate negotiated between the subrecipient and the federal government, or other indirect cost rate information as required.

#### **ARTICLE XVIII. BUSINESS ASSOCIATE REQUIREMENTS UNDER HIPAA**

- A. The definitions contained in this section are derived from federal law. Should there be any conflict between the meanings assigned in this Agreement and the meanings defined in applicable federal law (even in the event of future amendments to law that create such conflict), the definitions found in federal law will prevail.
1. **General Definitions.** The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information and Use.
  2. **Specific Definitions.**
    - a. HIPAA means the Health Insurance Portability and Accountability Act of 1996, the American Recovery and Reinvestment Act of 2009 (ARRA) and any other applicable federal statute or regulation.
    - b. HIPAA Rules shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
    - c. Covered Entity means a health plan, a health care clearinghouse, or health care provider under 45 CFR 160.103.
    - d. Business Associate means a person or entity that, on behalf of the Covered Entity, maintains, performs, or assists in the performance of a function or activity that involves the use or disclosure of "Protected Health Information" under 45 CFR 160.103.
    - e. Protected Health Information (PHI) means individually identifiable information including but not limited to the past, present or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present or future payment for health care provided to an individual, as more fully defined under 45 CFR Part 164 and any amendments thereto, received or sent on behalf of the Department.
- B. SUBGRANTEE acknowledges that ODM is a Covered Entity under HIPAA. SUBGRANTEE further acknowledges that it is a Business Associate of ODM, and, in carrying out the work described in this Agreement, agrees to comply with all of the following provisions:

1. **Permitted Uses and Disclosures.** SUBGRANTEE will not use or disclose PHI except as provided in this Agreement or as otherwise required under HIPAA regulations or other applicable law.
2. **Safeguards.** SUBGRANTEE will implement sufficient safeguards, and comply with Subpart C of 45 CFR Part 164 pertaining to electronic PHI to prevent the use or disclosure of PHI other than as provided for under this Agreement. Safeguards will be implemented for all paper and electronic PHI created, received, maintained, or transmitted on behalf of ODM.
3. **Reporting of Disclosures.** SUBGRANTEE agrees to promptly report to ODM any inappropriate use or disclosure of PHI that is not in accordance with this Agreement or applicable law, including breaches of unsecured protected health information as required at 45 CFR 164.410 and any security incident the SUBGRANTEE has knowledge of or reasonably should have knowledge of under the circumstances.

Further, SUBGRANTEE shall report to ODM the following:

- a. Any use or disclosure of PHI which is not in compliance with the terms of this Agreement or applicable law of which it becomes aware; and
- b. Any security incident of which it becomes aware. For purposes of this Agreement, "security incident" means the unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

As soon as is practical following of discovery of a reportable security incident, SUBGRANTEE shall notify ODM of the existence and nature of the incident as understood at that time. SUBGRANTEE shall immediately investigate the incident and within 24 hours of discovery shall provide ODM, in writing, a report describing the status and any results of SUBGRANTEE's investigation.

Reporting and other communications made to ODM under this section must be made to ODM's HIPAA privacy officer and Office of Legal Counsel at: [PrivacyOffice@medicaid.ohio.gov](mailto:PrivacyOffice@medicaid.ohio.gov) and [Mcdlegal@medicaid.ohio.gov](mailto:Mcdlegal@medicaid.ohio.gov)

4. **Mitigation Procedures.** SUBGRANTEE agrees to coordinate with ODM to determine specific actions that will be required of the Business Associates for mitigation, to the extent practical, of the breach. These actions will include notification to the appropriate individuals, entities, or other authorities. Notification or communication to any media outlet must be approved, in writing, by ODM prior to any such communication being released. SUBGRANTEE will report all of its mitigation activity to ODM and shall preserve all relevant records and evidence.
5. **Incidental Costs.** SUBGRANTEE shall bear the sole expense of all costs to mitigate any harmful effect, of any breaches or security incidents of which SUBGRANTEE has knowledge which are directly caused by the use or disclosure of protected health information by SUBGRANTEE in violation of the terms of this Agreement. These costs will include, but are not limited to, the cost of investigation, remediation and assistance to the affected individuals, entities or other authorities.
6. **Agents and Subcontractors.** SUBGRANTEE, in compliance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2) as applicable, will ensure that all its agents and subcontractors that create, receive, maintain, or transmit PHI from or on behalf of SUBGRANTEE and/or ODM agree to have, in a written agreement, the same restrictions, conditions, and requirements that apply to SUBGRANTEE with respect to the use or disclosure of PHI.
7. **Accessibility of Information.** SUBGRANTEE will make available to ODM such information as ODM may require to fulfill its obligations to provide access to, provide a copy of any information or documents with respect to PHI pursuant to HIPAA and regulations promulgated by the United States Department of Health and Human Services, including, but not limited to, 45 CFR 164.524 and 164.528 and any amendments thereto.
8. **Amendment of Information.** SUBGRANTEE shall make any amendment(s) to PHI as directed by, or agreed to, by ODM pursuant to 45 CFR 164.526, or take other steps as necessary to satisfy ODM's obligations under 45 CFR 164.526. In the event that SUBGRANTEE receives a request for

amendment directly from the individual, agent, or subcontractor. SUBGRANTEE will notify ODM prior to making any such amendment(s). SUBGRANTEE's authority to amend information is explicitly limited to information created by SUBGRANTEE.

9. **Accounting for Disclosure.** SUBGRANTEE shall maintain and make available to ODM or individuals requesting the information as appropriate, records of all disclosures of PHI in a Designated Record Set as necessary to satisfy ODM's obligations under 45 CFR 164.528. For every disclosure the record will include, at a minimum, the name of the individual who is the subject of the disclosure, the date of the disclosure, reason for the disclosure if any, and the name and address of the recipient to which the protected health information was disclosed.
10. **Obligations of Department.** When SUBGRANTEE is to carry out an obligation of ODM under Subpart E of 45 CFR 164, SUBGRANTEE agrees to comply with all applicable requirements of Subpart E that would apply to ODM in the performance of such obligation.
11. **Access to Books and Records.** SUBGRANTEE shall make available to ODM and to the Secretary of the U.S. Department of Health and Human Services any and all internal practices, documentation, books, and records related to the use and disclosure of PHI received from ODM, or created or received on behalf of ODM. Such access is for the purposes of determining compliance with the HIPAA Rules.
12. **Material Breach.** In the event of material breach of SUBGRANTEE's obligations under this Article, ODM may immediately terminate this Agreement as set forth in ARTICLE VI, Section B. Termination of this Agreement will not affect any provision of this Agreement, which, by its wording or its nature, is intended to remain effective and to continue to operate after termination.
13. **Return or Destruction of Information.** Upon termination of this Agreement and at the request of ODM, SUBGRANTEE will return to ODM or destroy all PHI in SUBGRANTEE's possession stemming from this Agreement as soon as possible but no later than 90 days, and will not keep copies of the PHI except as may be requested by ODM or required by law, or as otherwise allowed for under this Agreement. If SUBGRANTEE, its agent(s), or subcontractor(s) destroy any PHI, then SUBGRANTEE will provide to ODM documentation evidencing such destruction. Any PHI retained by SUBGRANTEE will continue to be extended the same protections set forth in this Section, HIPAA regulations and this Agreement for as long as it is maintained.
14. **Survival.** These provisions shall survive the termination of this Agreement.

#### **ARTICLE XIX. SUBGRANTEE CERTIFICATION OF COMPLIANCE WITH SPECIAL CONDITIONS**

By accepting this Subgrant and by executing this Agreement, SUBGRANTEE hereby affirms current and continued compliance with each condition listed in this Article. SUBGRANTEE's certification of compliance with each of these conditions is considered a material representation of fact upon which ODM relied in entering into this Agreement:

- A. If at any time, SUBGRANTEE is not in compliance with the conditions affirmed in this Section, ODM will consider this Agreement to be *void ab initio* and will deliver written notice to SUBGRANTEE. Any funds the State of Ohio paid SUBGRANTEE for work performed before SUBGRANTEE received notice that the Agreement is *void ab initio* will be immediately repaid or the State of Ohio may commence an action for recovery against SUBGRANTEE.
  1. **Federal Debarment Requirements.** SUBGRANTEE affirms that neither SUBGRANTEE nor any of its principals, subgrantees, or subcontractors, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions by any federal agency. SUBGRANTEE also affirms that within three years preceding this agreement neither SUBGRANTEE nor any of its principals:
    - a. Have been convicted of, or had a civil judgment rendered against them for commission of fraud or other criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local public transaction or contract under a public transaction; for violation of federal or state antitrust statutes; for commission of embezzlement, theft,

forgery, bribery, falsification or destruction of records, making false statements; or for receiving stolen property; or

- b. Are presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State, or local) for the commission of any of the offenses listed in this paragraph and have not had any federal, state, or local, public transactions terminated for cause or default.

2. **Qualifications to Conduct Business.** SUBGRANTEE affirms that it has all of the approvals, licenses, or other qualifications needed to conduct business in Ohio and all are current. If at any time during the Agreement period SUBGRANTEE, for any reason, becomes disqualified from conducting business in the State of Ohio, SUBGRANTEE will immediately notify ODM in writing and will immediately cease performance of all Subgrant activities.
3. **Unfair Labor Practices.** SUBGRANTEE affirms that neither SUBGRANTEE nor its principals are on the most recent list established by the Ohio Secretary of State, pursuant to ORC 121.23, which would identify SUBGRANTEE as having more than one unfair labor practice contempt of court finding.
4. **Finding for Recovery.** SUBGRANTEE affirms that neither SUBGRANTEE nor its principals, subgrantees, or subcontractors, is subject to a finding for recovery under ORC 9.24, or it has taken the appropriate remedial steps required, or otherwise qualifies under ORC 9.24 to contract with the State of Ohio.

B. If at any time SUBGRANTEE is not in compliance with the conditions affirmed in this Section B, ODM may immediately suspend or terminate this Agreement and will deliver written notice to SUBGRANTEE. SUBGRANTEE will be entitled to compensation, upon submission of a proper invoice per ARTICLE IV, only for work performed during the time SUBGRANTEE was in compliance with the provisions of this Section. Any funds paid by the State of Ohio for work performed during a period when SUBGRANTEE was not in compliance with this Section B will be immediately repaid or the State of Ohio may commence an action for recovery against SUBGRANTEE.

1. **Fair Labor Standards and Employment Practices.** SUBGRANTEE certifies that it is in compliance with all applicable federal and state laws, rules, and regulations governing fair labor and employment practices.
2. **Civil Rights Laws.**
  - a. SUBGRANTEE, its officers, employees, members, and subcontractors hereby affirm current and ongoing compliance with all federal civil rights laws including:
    - (1) Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352);
    - (2) Title VI of the Civil Rights Act of 1964 (42 USC 2000d, et seq.);
    - (3) The Americans with Disabilities Act of 1990 (42 USC 12101, et seq.) and Section 504 of the Rehabilitation Act of 1973; and
    - (4) The Age Discrimination Act of 1975 (42 USC 6101, et seq.).
  - b. In carrying out this Agreement, SUBGRANTEE will not discriminate against any employee or applicant for employment because of race, color, religion, gender, national origin, military status, disability, age, genetic information, or sexual orientation, in making any of the following employment decisions: hiring, layoff, termination, transfer, promotion, demotion, rate of compensation, and eligibility for in-service training programs.
  - c. SUBGRANTEE agrees that it will not participate in, condone or tolerate any form of sexual harassment against any employee, subcontractor, or other person or entity with which it is associated in performance of this Agreement, which is considered a form of sex discrimination prohibited by Title VII of the Civil Rights Act of 1964, the Ohio Revised Code 4112.02, Ohio Administrative Code 123:1-49, the Anti-Discrimination Policy in State Government Executive Order 2019-05D, or state agency policy.

- d. SUBGRANTEE agrees to post notices affirming compliance with all applicable federal and state non-discrimination laws in conspicuous places accessible to all employees and applicants for employment.
- e. SUBGRANTEE will incorporate the foregoing requirements of this Paragraph in all of its subgrants or subcontracts for any of the work prescribed herein.

**3. Ethics and Conflicts of Interest Laws.**

- a. SUBGRANTEE certifies that by executing this Agreement, it has reviewed, knows and understands the State of Ohio's ethics and conflict of interest laws. SUBGRANTEE further agrees that it will not engage in any action(s) inconsistent with Ohio ethics laws or any Executive Orders.
- b. SUBGRANTEE certifies, by executing this Agreement, that no party who holds a position listed or described in ORC 3517.13 (I) or (J), has made, while in his/her current position, one or more personal monetary contributions in excess of One Thousand and 00/100 Dollars (\$1,000.00) to the current Governor or to the Governor's campaign committee when he was a candidate for office within the previous two calendar years. ORC 3517.13 does not apply to professional associations organized under ORC Chapter 1785.
- c. SUBGRANTEE agrees to refrain from promising or giving to any ODM employee anything of value that could be construed as having a substantial and improper influence upon the employee with respect to the employee's duties. SUBGRANTEE further agrees that it will not solicit any ODM employee to violate ORC 102.03, 2921.42, or 2921.43.
- d. SUBGRANTEE agrees that SUBGRANTEE, its officers, employees, and members have not nor will they acquire any interest, whether personal, business, direct or indirect, that is incompatible, in conflict with, or would compromise the discharge and fulfillment of SUBGRANTEE's functions and responsibilities under this Agreement. If SUBGRANTEE, its officers, employees, or members acquire any incompatible, conflicting, or compromising interest, SUBGRANTEE agrees it will immediately disclose the interest in writing to the ODM Chief Legal Counsel at 50 West Town Street, Columbus, Ohio 43215-3414. SUBGRANTEE further agrees that the person with the conflicting interest will not participate in any Subgrant activities until ODM determines that participation would not be contrary to public interest.

**4. Lobbying Restrictions.**

- a. SUBGRANTEE affirms that no federal funds paid to SUBGRANTEE by ODM through this Agreement or any other agreement have been or will be used to lobby Congress or any federal agency in connection with a particular contract, grant, cooperative agreement or loan. SUBGRANTEE further affirms compliance with all federal lobbying restrictions, including, 31 USC 1352. If this Subgrant exceeds One Hundred Thousand and 00/100 Dollars (\$100,000.00), SUBGRANTEE affirms that it has executed and filed the Disclosure of Lobbying Activities standard form LLL, if required by federal regulations.
- b. SUBGRANTEE certifies compliance with the Ohio executive agency lobbying restrictions contained in ORC 121.60 to 121.69.
- c. SUBGRANTEE, if a recipient of a federal award in excess of One Hundred Thousand and 00/100 Dollars (\$100,000.00), certifies compliance with the Byrd Anti-Lobbying Amendment, which at a minimum, attests SUBGRANTEE will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC Chapter 1352.



5. **Child Support Enforcement.** SUBGRANTEE agrees to cooperate with ODM and any child support enforcement agency in ensuring that SUBGRANTEE and its employees meet child support obligations established by state and federal law including present and future compliance with any court or valid administrative order for the withholding of support issued pursuant to the applicable sections of ORC Chapters 3119, 3121, 3123, and 3125.
6. **Pro-Child Act.** If any Subgrant activities call for services to minors, SUBGRANTEE agrees to comply with the Pro-Children Act of 1994; Public Law 103-277, Part C – Environment Tobacco Smoke that requires smoking to be banned in any portion of any indoor facility owned, leased, or contracted by an entity that will routinely or regularly use the facility for the provision of health care services, day care, library services, or education to children under the age of 18.
7. **Drug-Free Workplace.** SUBGRANTEE, its officers, employees, members, any subgrantees and/or any independent contractors (including all field staff) associated with this Agreement agree to comply with all applicable state and federal laws, including, but not limited to, 41 USC Chapter 10, regarding a drug-free workplace. SUBGRANTEE will make a good faith effort to ensure that none of SUBGRANTEE's officers, employees, members, or subgrantees will purchase, transfer, use, or possess illegal drugs or alcohol or abuse prescription drugs in any way while working or while on public property.
8. **Work Programs.** SUBGRANTEE agrees not to discriminate against individuals who have or are participating in any work program administered by any county department of Job and Family Services under ORC Chapter 5101 or 5107.
9. **MBE/EDGE.** Pursuant to the Governor's Executive Order 2008-13S, SUBGRANTEE agrees to purchase goods and services under this Agreement from certified Minority Business Enterprise (MBE) and Encouraging Diversity, Growth, and Equity (EDGE) vendors whenever possible. Likewise, SUBGRANTEE agrees to require any of its subgrantees or subcontractors to purchase goods and services from certified MBE and EDGE vendors whenever possible.
10. **Expenditure of Public Funds for Offshore Services—Executive Order Requirements.**
  - a. SUBGRANTEE, a public university, certifies that by executing this Agreement, it has reviewed and understands ODM's obligation under Governor's Executive Order 2019-12D, and will perform no services required under this Agreement outside of the United States.
11. **Combatting Trafficking in Persons.**
  - a. SUBGRANTEE agrees that it is in compliance with the Trafficking Victims Protection Act as amended (22 USC 7104), see 2 CFR Part 175, in which "the United States Government has adopted a zero tolerance policy regarding trafficking in persons." The provisions found in 2 CFR Part 175, are hereby incorporated into this Agreement by reference;
  - b. SUBGRANTEE, its employees, its subgrantees, its subcontractors, or subcontractors' employees are prohibited from the following activities:
    - (1) Engaging in severe forms of trafficking in persons during the period of performance of the Agreement;
    - (2) Procuring commercial sex acts during the period of performance of the Agreement;  
or
    - (3) Using forced labor in the performance of the Agreement.
  - c. SUBGRANTEE agrees that it shall notify, and require all of its subgrantees or subcontractors to notify, its employees of the prohibited activities described in the preceding paragraph; and

- d. ODM has the right to immediately and unilaterally terminate this Agreement if any provision in this Section is violated and ODM may implement section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 USC 7104), see 2 CFR Part 175.
12. **Clean Air Act and Federal Water Pollution Control Act.** SUBGRANTEE agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401, et seq.) and the Federal Water Pollution Control Act as amended (33 USC 1251, et seq.). Violations must be reported to the Federal awarding agency and the United States Regional Office of the Environmental Protection Agency (US EPA).
13. **Energy Policy and Conservation Act.** SUBGRANTEE agrees to comply with all applicable standards, orders or regulations issued pursuant to the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act in accordance with 42 USC 6201. Violations must be reported to the Federal awarding agency and the United States Regional Office of the Environmental Protection Agency (US EPA).
14. **Solid Waste Disposal.** GRANTEE agrees to comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the US EPA at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000.00 or the value of the quantity acquired by the preceding federal fiscal year exceeded \$10,000.00; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the US EPA guidelines.
15. **Experimental, Developmental, or Research Work.** If SUBGRANTEE enters into a contract or subgrant with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the federal awarding agency;
16. **Certification of Compliance.** SUBGRANTEE certifies that it is in compliance with all other applicable federal and state laws, regulations, and rules and will require the same certification from its subgrantees or subcontractors.

## ARTICLE XX. BUSINESS CONTINUITY PLAN

- A. SUBGRANTEE recognizes that certain services under this Agreement are vital to ODM and must be continued without interruption. SUBGRANTEE shall be prepared to continue providing such services identified by ODM, during periods of disaster, crisis, or other unexpected break in services based upon a Business Continuity Plan (Plan). SUBGRANTEE is required to implement and maintain a sustainable Plan throughout the term of this Agreement, and provide the Plan to ODM upon request. The Plan will, at a minimum:
1. Enable continued performance under this Agreement in the event of a disaster or other unexpected break in services; and
  2. Ensure the continuity for identified vital services and supporting facilities.
- B. For purposes of this Article, the term "disaster" means an unanticipated incident or event, including, but not limited to, force majeure events, technological accidents or human-caused events that may cause a material service or critical application to be unavailable without any reasonable prediction for resumption; or causes data loss, property damage or other business interruption without any prediction for recovery within a commercially reasonable time period.

## ARTICLE XXI. MISCELLANEOUS PROVISIONS

- A. **Independent Contractor.** SUBGRANTEE agrees that no agency, employment, joint venture, or partnership has been or will be created between ODM and SUBGRANTEE. SUBGRANTEE further agrees that as an independent SUBGRANTEE, it assumes all responsibility for any federal, state, municipal or other tax liabilities along with workers compensation, unemployment compensation and insurance premiums that may accrue as a result of funds received pursuant to this Agreement. SUBGRANTEE agrees that it is an independent SUBGRANTEE for all purposes including, but not limited to, the application of the Fair Labor Standards Act, the Social Security Act, the Federal Unemployment Tax Act, the Federal Insurance Contribution Act, provisions of the Internal Revenue Code, Ohio tax law, Workers Compensation law, and Unemployment Insurance law.
- B. **Limitation of Liability.** To the extent allowable by law, SUBGRANTEE agrees to defend, indemnify and hold THE STATE, its officials, employees and agents harmless from and against any and all liability, loss and expense (including reasonable attorneys' fees) or claims for personal injury, property damage, patent and copyright infringement, or for any liability or claims under ARTICLE X above ("Business Associate Requirements Under HIPAA"), and/or any other type of claim that arises from the performance of the Deliverables under this Agreement. SUBGRANTEE's sole and exclusive remedy for any ODM failure to perform under this Agreement will be an action in the Ohio Court of Claims pursuant to ORC Chapter 2743 that will be subject to the limitations set forth in this Article. In no event will THE STATE be liable for any indirect or consequential damages, including loss of profits, even if THE STATE knew or should have known of the possibility of such damages. To the extent that THE STATE is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio. Subject to ORC 109.02, SUBGRANTEE agrees to defend THE STATE against any such claims or legal actions if called upon by ODM to do so.
- C. **Infringement of Patent or Copyright.** To the extent allowable by law and subject to ORC 109.02, SUBGRANTEE agrees to defend any suit or proceeding brought against THE STATE, any official or employee of THE STATE acting in his or her official capacity, or the State of Ohio due to any alleged infringement of patent or copyright arising out of the performance of this Agreement, including all work, services, materials, reports, studies, and computer programs provided by SUBGRANTEE. THE STATE will provide prompt notification in writing of such suit or proceeding; full right, authorization, and opportunity to conduct the defense thereof; and full disclosure of information along with all reasonable cooperation for the defense of the suit. THE STATE may participate in the defense of any such action. SUBGRANTEE agrees to pay all damages and costs awarded against THE STATE, any official or employee of THE STATE in his or her official capacity, or the State of Ohio as a result of any suit or proceeding referred to in this Section. If any information and/or assistance are furnished by THE STATE at SUBGRANTEE's written request, it is at SUBGRANTEE's expense. If any of the materials, reports, or studies provided by SUBGRANTEE are found to be infringing items and the use or publication thereof is enjoined, SUBGRANTEE agrees to, at its own expense and at its option, either procure the right to publish or continue use of such infringing materials, reports, or studies; replace them with non-infringing items of equivalent value; or modify them so that they are no longer infringing. The obligations of SUBGRANTEE under this Section survive the termination of this Agreement, without limitation.
- D. **Liens.** SUBGRANTEE will not permit any lien or claim to be filed or prosecuted against ODM or the State of Ohio because of any labor, services, or materials furnished. If SUBGRANTEE fails, neglects, or refuses to make prompt payment of any claims for labor, services, or materials furnished to SUBGRANTEE in connection with this Agreement, ODM or the State of Ohio may, but is not obligated to, pay those claims and charge the amount of payment against the funds due or to become due to SUBGRANTEE under this Agreement.
- E. **Delay.** No party will be liable for any delay in its performance that arises from causes beyond its control and without its negligence or fault. The delaying party will notify the other promptly of any material delay in performance and will specify in writing the proposed revised performance date as soon as practicable after notice of delay. The delaying party must also describe the cause of the delay and its proposal to remove or mitigate the delay. Notices will be sent pursuant to ARTICLE VII. In the event of excusable delay, the date of performance or delivery of products may be extended by amendment, if applicable, for a time period equal to that lost due to the excusable delay. Reliance on a claim of excusable delay may only be asserted if the delaying party has taken commercially reasonable steps to mitigate or avoid the delay. Items that are

controllable by SUBGRANTEE's subcontractor(s) will be considered controllable by SUBGRANTEE, except for third-party manufacturers supplying commercial items and over whom SUBGRANTEE has no legal control. The final determination of whether an instance of delay is excusable lies with ODM in its discretion.

- F. **Risk Assessment.** In accordance with 2 CFR 200.331 and 2 CFR 200.207, ODM as a pass-through entity evaluates SUBGRANTEE's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward. If deemed required, SUBGRANTEE agrees to comply with specific conditions and monitoring requirements posed by ODM to ensure proper accountability and compliance with program requirements and achievement of performance goals.
- G. **Counterpart.** This Agreement may be executed in one, or more than one counterpart, and each executed counterpart shall be considered an original, provided that such counterpart is delivered to the other party by facsimile, mail courier or electronic mail, all of which together shall constitute one and the same agreement.

## **ARTICLE XXII. CONSTRUCTION**

This Agreement will be governed, construed, and enforced in accordance with the laws of the State of Ohio. Should any portion of this Agreement be found unenforceable by operation of statute or by administrative or judicial decision, the remaining portions of this Agreement will not be affected as long as the absence of the illegal or unenforceable provision does not render the performance of the remainder of the Agreement impossible.

Signature Page Follows:

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**OHIO DEPARTMENT OF MEDICAID  
SUBGRANT AGREEMENT**

**SIGNATURE PAGE**

**G-2223-05-0063**

TO SHOW THEIR AGREEMENT, THE PARTIES HAVE EXECUTED THIS SUBGRANT AGREEMENT AS OF THE DATE OF THE SIGNATURE OF THE DIRECTOR OF THE OHIO DEPARTMENT OF MEDICAID.

Ohio Department of Medicaid



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Maureen M. Corcoran, Director

50 West Town Street  
Columbus, Ohio 43215

August 02, 2021

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Date

**Certificate Of Completion**

|  |                           |
|--|---------------------------|
| Envelope Id: 8AC01813398343A8992405EF76980C6C                            | Status: Completed         |
| Subject: Please DocuSign: 2223 G-2223-05-0063 MEDTAPP Master-Updated.pdf |                           |
| Source Envelope:   |                           |
| Document Pages: 36   | Signatures: 1             |
| Certificate Pages: 1   | Initials: 0               |
| AutoNav: Enabled   | Envelope Originator:      |
| Enveloped Stamping: Enabled  | Aimee Beth Nielsen-Link   |
| Time Zone: (UTC-05:00) Eastern Time (US & Canada)                        | 1050 Carmack Rd           |
|  | Columbus, OH 43210        |
|  | nielsen-link.1@osu.edu    |
|  | IP Address: 140.254.35.52 |


**Record Tracking**

|                     |                                 |                    |
|---------------------|---------------------------------|--------------------|
| Status: Original    | Holder: Aimee Beth Nielsen-Link | Location: DocuSign |
| 7/6/2021 1:52:11 PM | nielsen-link.1@osu.edu          |                    |

**Signer Events**

Christine Hamble  
 hamble.3@osu.edu  
 Assoc VP Sponsored Programs  
 The Ohio State University  
 Security Level: Email, Account Authentication (None)

**Signature**

DocuSigned by:  
  
 76AE57032388427...  
 Signature Adoption: Pre-selected Style  
 Using IP Address: 140.254.35.52

**Timestamp**

Sent: 7/6/2021 1:54:37 PM  
 Resent: 7/7/2021 1:03:54 PM  
 Viewed: 7/7/2021 1:09:16 PM  
 Signed: 7/7/2021 1:09:46 PM

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

| In Person Signer Events             | Signature        | Timestamp           |
|-------------------------------------|------------------|---------------------|
| <b>Editor Delivery Events</b>       | <b>Status</b>    | <b>Timestamp</b>    |
| <b>Agent Delivery Events</b>        | <b>Status</b>    | <b>Timestamp</b>    |
| <b>Intermediary Delivery Events</b> | <b>Status</b>    | <b>Timestamp</b>    |
| <b>Certified Delivery Events</b>    | <b>Status</b>    | <b>Timestamp</b>    |
| <b>Carbon Copy Events</b>           | <b>Status</b>    | <b>Timestamp</b>    |
| <b>Witness Events</b>               | <b>Signature</b> | <b>Timestamp</b>    |
| <b>Notary Events</b>                | <b>Signature</b> | <b>Timestamp</b>    |
| <b>Envelope Summary Events</b>      | <b>Status</b>    | <b>Timestamps</b>   |
| Envelope Sent                       | Hashed/Encrypted | 7/6/2021 1:54:37 PM |
| Certified Delivered                 | Security Checked | 7/7/2021 1:09:16 PM |
| Signing Complete                    | Security Checked | 7/7/2021 1:09:46 PM |
| Completed                           | Security Checked | 7/7/2021 1:09:46 PM |
| <b>Payment Events</b>               | <b>Status</b>    | <b>Timestamps</b>   |

**OHIO DEPARTMENT OF MEDICAID  
SUBGRANT AGREEMENT**

**SIGNATURE PAGE**

**G-2223-05-0063**

TO SHOW THEIR AGREEMENT, THE PARTIES HAVE EXECUTED THIS SUBGRANT AGREEMENT AS OF THE DATE OF THE SIGNATURE OF THE DIRECTOR OF THE OHIO DEPARTMENT OF MEDICAID.

Ohio Department of Health

*Stephanie McCloud - MW.*  
Stephanie McCloud, Director

246 North High Street  
Columbus, Ohio 43215

7/14/21  
Date

**OHIO DEPARTMENT OF MEDICAID  
SUBGRANT AGREEMENT**

**SIGNATURE PAGE**

**G-2223-05-0063**

TO SHOW THEIR AGREEMENT, THE PARTIES HAVE EXECUTED THIS SUBGRANT AGREEMENT AS OF THE DATE OF THE SIGNATURE OF THE DIRECTOR OF THE OHIO DEPARTMENT OF MEDICAID.

The Chancellor of the Ohio Department of Higher Education

<sup>mlc</sup>  
Randy Gardner, Chancellor

25 South Front Street  
Columbus, Ohio 43215

7/9/2021  
Date



**OHIO DEPARTMENT OF MEDICAID  
SUBGRANT AGREEMENT**

**SIGNATURE PAGE**

**G-2223-05-0063**

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Ohio Department of Mental Health and Addiction Services

  
\_\_\_\_\_  
Lori Criss, Director

30 East Broad Street, 8<sup>th</sup> Floor  
Columbus, Ohio 43215

7/19/2021

\_\_\_\_\_  
Date

**OHIO DEPARTMENT OF MEDICAID  
SUBGRANT AGREEMENT**

**SIGNATURE PAGE**

**G-2223-05-0063**

TO SHOW THEIR AGREEMENT, THE PARTIES HAVE EXECUTED THIS SUBGRANT AGREEMENT AS OF THE DATE OF THE SIGNATURE OF THE DIRECTOR OF THE OHIO DEPARTMENT OF MEDICAID.

Ohio Department of Developmental Disabilities



\_\_\_\_\_  
Jeff Davis, Director

30 East Broad Street, 13<sup>th</sup> Floor  
Columbus, Ohio 43215

6-24-21

\_\_\_\_\_  
Date

**OHIO DEPARTMENT OF MEDICAID  
SUBGRANT AGREEMENT**

**SIGNATURE PAGE**

**G-2223-05-0063**

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Ohio Department of Aging

*Ursel J. McElroy by Jennifer P. Stires*

\_\_\_\_\_  
Ursel J. McElroy, Director

7/7/21

Date

246 N. High Street, 1st Floor  
Columbus, Ohio 43215-2406

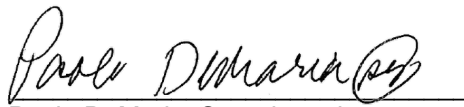
**OHIO DEPARTMENT OF MEDICAID  
SUBGRANT AGREEMENT**

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The Ohio Department of Education

A handwritten signature in black ink, appearing to read "Paolo DeMaria", is written over a horizontal line.

Paolo DeMaria, Superintendent

25 South Front Street  
Columbus, Ohio 43215