MNsure℠

Where you choose health coverage

Solicitation for Partnership Proposals for Lead Agents and Brokers

An Innovative Marketing, Sales & Enrollment Program

Table of Contents

Project Overview 3
Scope of Work 4
Informational Links 4
Questionnaire 5
Part I: Administrative 5
Part II: Marketing and Sales Approach 8
Part III: Ethics and Conduct; Privacy and Security 10
Evaluation and Selection Criteria 12
Preparation of Response to Proposal 13
Rights of MNsure in Evaluating Partnership Proposals 13
Disqualification 14
Key Dates and Milestones 14
Contact 14
Proposal Submission 14
General Requirements (Including Required Form) 14
State of Minnesota Affidavit of Noncollusion 17
Sample Contract ..... Attached

Project Overview

Purpose

We are soliciting partnership proposals for Agencies interested in hosting an Enrollment Center for the upcoming enrollment period beginning November 15, 2014 through February 15, 2015. Interested Agencies should submit proposals by October 6, 2014 for consideration. This is an innovative way to have enrollment centers throughout the state where MNsure can direct consumers for enrollment assistance

The Selected Agencies will provide and staff a convenient walk-in site for residents of surrounding communities, while offering face-to-face assistance from MNsure certified brokers and navigators. These walk-in sites will be open throughout the open enrollment period.

MNsure seeks responses from broker agencies documenting their qualifications and commitment to work as Lead Agencies for QHP enrollment through MNsure.

Background

MNsure is an online health-insurance marketplace that facilitates the comparison, choice and purchase of health care coverage for individuals and small businesses. With this information, these individuals can choose and enroll in the health benefit plan that best fits their personal and family needs. MNsure is the only place eligible individuals and small businesses can receive financial help (advance premium tax credit and cost-sharing reductions). By engaging consumers in a one-stop shopping experience with transparent information, MNsure helps make purchasing health insurance easier and more understandable, puts more control and choice in the hands of individuals and employees of small businesses, and levels the playing field for consumers shopping for health insurance.

Almost 54,000 state residents have signed up for qualified health plans (QHPs) since MNsure opened on October 1, 2013. Much of the success of this campaign can be attributed to the productive effort of hundreds of brokers certified by MNsure. With the wind-down of federal grants for advertising and consumer assistance, and the new requirement for 2015 that State-based Marketplaces (SBMs) become self-supporting, MNsure seeks to build on cost-effective models for reaching and enrolling QHP eligible individuals. To that end, MNsure has developed a new method for working with selected brokers, and the specifications for candidate agencies to work closely with MNsure under this model.

MNsure will be transparent and inclusive as it looks to increase enrollment through this new method for working with selected brokers, and will continue to promote enrollment through all certified brokers as well as its website, navigators and all other assister support channels.

Time Frame

This solicitation is seeking development and implementation of a statewide pilot network of Lead Agents and Brokers to assist enrollees and prospective enrollees at their respective agency locations during the upcoming open enrollment season (November 15, 2014 – February 15, 2015) and 2015 plan year. MNsure anticipates multiple vendors across Minnesota will be selected during early October 2014 with implementation commencing immediately thereafter.

Goal

MNsure's goal is to:

1. Partner with committed members of the broker community to retain and grow QHP membership cost effectively
2. Provide enrollees with assistance from trusted health insurance professionals

3. Maximize eligibility determination and enrollment assistance to interested Minnesotans on a cost effective basis
4. Encourage creative outreach and innovative sales & marketing approaches to membership retention and growth

Scope of Work

In anticipation of the next open enrollment period (November 15, 2014 – February 15, 2015), MNsure seeks to engage up to 20 health insurance brokerage agencies across the state for an especially close working relationship. MNsure's Lead Agency model will identify a health insurance broker agency for geographic sub-markets of the State (a large city or group of towns; a county or group of counties), which is certified by MNsure and appointed by all of its participating issuers in a given sub-market to assist individuals to enroll through MNsure.

The Lead Agency will develop and operate, under agreement with MNsure, a walk-in site for education and enrollment, co-branded with MNsure. It will operate as a physical enrollment center during the 3-month open enrollment season (at least), and the Lead Agency will make space available, under reasonable and mutually agreed upon restrictions, for use by in-person brokers, agents and other assisters to help clients renewing or obtaining coverage.

Lead Agencies will receive planning and financial support from MNsure for outreach and educational campaigns directed at new consumers, re-enrollees and the uninsured. For example, financial support may be provided for development of creative materials and media planning and buying for the following:

1. **MNsure signage** – High-impact signage designed to direct customers to lead agencies for help with MNsure enrollment.
2. **Google paid search** – Lead agencies will appear among the top search results when consumers in the area search for certain key words (i.e. MNsure, health insurance etc.).
3. **Local radio OR local print advertising** – Lead agencies name and contact information will be included in a MNsure radio or print advertisement; radio may include local stations and/or Pandora while print will include local or community newspapers.

In addition, Lead Agencies will also be given priority on the broker portion of the MNsure website for broker referrals and access to its specialized broker staff for resolving difficult eligibility and enrollment cases.

Lead Agents will be selected on the evaluation and selection criteria listed on page 12.

Informational Links

To assist interested brokers in responding to the solicitation, MNsure is providing the following additional information:

1. For a national perspective on who enrolled and who remains uninsured, please see: Voices from the Newly Enrolled and Still Uninsured. A Survey about the Affordable Care Act's First Open Enrollment Period. Perry Undem Research Communication for Enroll America. July 2014 (document is located at: https://s3.amazonaws.com/assets.enrollamerica.org/wp-content/uploads/2013/11/Post-Enrollment-Survey.pdf)
2. "The ACA's First Enrollment Period: Why Did Some People Enroll…And Not Others." Perry Undem Research Communication for Enroll America. May 21, 2014. (document is located at: http://www.enrollamerica.org/resources/public-education/why-did-some-people-enroll-and-not-others/)

Respondents to this solicitation must provide answers to a three-part Questionnaire as follows:

Questionnaire

Part I: Administrative

1. Name of Agency and Primary Contact
2. Contact information for Primary Contact (including telephone, email and mailing address)
3. Physical location (s) of agency (while MNsure assumes that most respondents will utilize existing office space, Agencies may also propose new office space but are encouraged to do so with as much detail as possible to allow for thorough evaluation)
4. Using the chart format below, please provide a description of available office space and associated amenities for the following functions for each location: office (if more than one location, please copy and paste a separate chart format for each).

Location of Physical Office Space and Amenities:		
Functionality	**Specifics Required**	**Comments**
Reception/Triage Area	Sq. Footage:	
	Seating for:	
Private offices or cubicles	Number available:	
Internet connectivity and number of phone lines	High speed internet	
	Number of phone lines:	
Group meetings (assumes table and chair set up)	Room accommodates:	
Parking	Cost	
	Validation available?	
	Proximity to office space	
External signage	Describe opportunity for external signage, including approximate size(s) and placement considerations	
Access to public transportation	Describe accessibility	

5. Using the chart format below, please describe current service area, as measured by the geographic distribution of your individual market customers, i.e., the percentage by county of your total individual (non-group) market enrollees—including enrollment both on and off the exchange. *Agencies with significant Medicare business may provide a summarized snapshot of Over Age 65 enrollment data by county below the table if desired, in order to demonstrate Agency marketing strength.*

Current Geographical Reach of Existing Customer Base in the Individual Market							
% Enrolled Business	**County**	**% Enrolled Business**	**County**	**% Enrolled Business**	**County**	**% Enrolled Business**	**County**
	Aitkin		Fillmore		Martin		Rock
	Anoka		Freeborn		McLeod		Roseau
	Becker		Goodhue		Meeker		Scott
	Beltrami		Grant		Mille Lacs		Sherburne
	Benton		Hennepin		Morrison		Sibley
	Big Stone		Houston		Mower		St. Louis
	Blue Earth		Hubbard		Murray		Stearns
	Brown		Isanti		Nicollet		Steele
	Carlton		Itasca		Nobles		Stevens
	Carver		Jackson		Norman		Swift
	Cass		Kanabec		Olmsted		Todd
	Chippewa		Kandiyohi		Otter Tail		Traverse
	Chisago		Kittson		Pennington		Wabasha
	Clay		Koochiching		Pine		Wadena
	Clearwater		Lac Qui Parle		Pipestone		Waseca
	Cook		Lake		Polk		Washington
	Cottonwood		Lake of the Woods		Pope		Watonwan
	Crow Wing		Le Sueur		Ramsey		Wilkin
	Dakota		Lincoln		Red Lake		Winona
	Dodge		Lyon		Redwood		Wright
	Douglas		Mahnomen		Renville		Yellow Medicine
	Faribault		Marshall		Rice		
(Combined percentages for all 87 counties should equal 100%)							

Provide snapshot of Medicare enrollment by county if desired.

6. Using the chart format below, please estimate the number of MNsure members (not contracts) by QHP carrier, Medical Assistance and MinnesotaCare members enrolled by your agency through June 30, 2014:

Estimated Number of Enrolled QHP, MinnesotaCare and Medical Assistance Enrollees ***Note: If you can only provide the number of contracts, this is acceptable but you must clearly state that you are providing a contract count instead of a member count)***		
Carrier or Plan	**# of Members**	
	QHP	MinnesotaCare
BCBSMN		
HealthPartners		
Medica		
Preferred One		
UCare		
Guardian		
Delta Dental		
Public Assistance	**# of Members**	
Medical Assistance		

7. Please estimate the percentage of QHP members enrolled by your agency that received a federal subsidy (advance premium tax credit and/or cost sharing subsidy).

Part II: Marketing and Sales Approach

1. Please provide a detailed marketing proposal and budget to reach new consumers, the remaining uninsured in your region, as well as your plans to successfully renew your current consumers who enrolled through MNsure in 10 pages of less. The marketing proposal should include your plans to promote your location as well as the benefits of enrolling in MNsure.

   The following outline for the marketing proposal is recommended but not required:

   I. Current market assessment
   II. Target market (who, where, how many)
   III. Market strategies & total proposed budget for III.b
      a. Partnering and networking with navigators and other brokers
      b. Advertising/Promotion/Publicity plans and budget
         i. Print media
         ii. Direct mail
         iii. Local TV or radio
         iv. Social Media (if applicable)
         v. Digital
         vi. Other?
      c. Internal communication and training
      d. Sales and enrollment tactics
   IV. Measurable goals and objectives, including enrollment forecast for 11/15/2014 – 2/15/2015 open enrollment period (state expected percentage of retained business and number of net new QHP enrollees)
   V. Budget and Resources Lead Agency will dedicate
   VI. Needs from MNsure, including matching dollars for promotional marketing budget. The maximum request for matching funds from MNsure is $10,000.

2. Using the chart format below, indicate both your current and proposed staffing commitment if selected as a Lead Agency (if more than one location is proposed, please provide a chart for each):

Current and Proposed Staffing Commitment						
Type of Staff	**In Place as of March 2014**		**Proposed: In Place by November 2014**			
	# PT Staff (<30 hrs./wk.)	# FT Staff (=> 30 hrs./wk.)	Part Time (< 30 hrs./wk.)		Full Time (=> 30 hrs./wk.)	
			# PT Staff	How many of the PT staff positions are/will be permanent positions?	# FT Staff	How many of the FT staff positions are/will be permanent positions?
Receptionist/ Administrative Support						
Licensed Broker (W-2 Employee/s)						
Licensed Broker (1099 contractor/s)						
Tax Preparer Credentials Only						
Licensed Broker and Tax Preparer Credentials (specify W-2 vs 1099 staff)						
Other - Define:						
Other - Define:						

3. Do current or proposed staff members enjoy bi-lingual language abilities? Please be specific and explain the language capability, the type of staff, and if bi-lingual staff is current or proposed.
4. During the initial open enrollment period (October 1, 2013 – March 31, 2014), did your agency closely interact with any MNsure navigators, grantees or other assisters? Please be specific and explain any relationships.
5. If your agency did not interact with certified navigators during the initial open enrollment period, please indicate your willingness to do so and plan for building those relationships during the next open enrollment period beginning on November 15, 2014. Please name the navigators you plan to work with or build relationships with prior to open enrollment. If you have any reservations in working collaboratively with navigators, please state so in your response.
6. Please define your proposed Lead Agency service area by providing the names of cities and towns that will be covered in your marketing plan (the county for each city and town should also be provided). Agencies should be appointed by all carriers offering coverage in the proposed service area.
7. If selected as a Lead Agency, are you willing to “host” interested brokers who are willing to assist in “staffing” your enrollment site? This “hosting” arrangement assumes that commission splitting would not be required (Lead Agency benefits from extra staffing at no fixed cost and willing brokers benefit from opportunity to gain new business in a more

heavily promoted/trafficked enrollment site). If yes, to what extent are you willing to accommodate interested brokers? Please be specific.

8. Using the chart format below, please provide proposed hours of operation for the open enrollment period.

Proposed Hours of Operation During 11/15/14 - 2/15/15 Open Enrollment				
Day	**November 2014**	**December 2014**	**January 2015**	**February 2015**
Monday				
Tuesday				
Wednesday				
Thursday				
Friday				
Saturday				
Sunday				

9. As a Lead Agency are you willing to address community groups interested in hearing about MNsure? Please indicate with as much specificity as possible your willingness to travel locally (i.e., distance) and to accommodate the frequency of such group talks (i.e., number per week).
10. Successful candidates for Lead Agency designations will be expected to provide a weekly enrollment report to MNsure. This excel-based report will minimally include the following data elements: number of in person encounters, number of enrollments, certain demographic data such as the prior coverage status of newly enrolled, and number of community presentations and attendees. Please confirm your agency's willingness to provide weekly reporting.
11. If selected as a Lead Agency, are you committed to providing service to any individual who personally visits your site for one-on-one assistance, including individuals who may be eligible for Medical Assistance or MinnesotaCare? (Clients likely to qualify for these programs could be supported by navigators with whom the lead Agency has an effective working relationship.)
12. Lead Agencies are expected to provide year-round service and support to enrollees as needed; please confirm agency plan to do so here.

Part III: Ethics and Conduct; Privacy and Security

Successful agency principal(s) and broker staff will be required to

1. Meet and maintain MNsure Broker Certification requirements,
2. Comply with MNsure Privacy and Security guidelines by taking and passing MNsure Data Privacy and Security training as part of their Certification requirements,
3. Comport oneself at all times with the highest professional ethics and conduct standards, and
4. Be in and remain in compliance with all applicable federal, state and local laws, as well as all established policies, rules and procedures of MNsure.

Lead Agent candidates should provide one or two recommendations to MNsure on how MNsure can ensure participants conduct themselves in accordance with the highest ethical standards.

MNsure Broker Certification Requirements

For brokers to be certified, they must meet and maintain the following requirements:

1. Must be licensed with the State of Minnesota;
2. Must be appointed by each insurer participating in MNsure for any geographical area Lead Agent proposes to represent for this program;
3. Provide a copy of Errors & Omissions declaration page or certificate of insurance;
4. Must participate in and successfully complete the Broker Certification Program; and
5. Must participate in any additional required training session(s).

Ethics & Conduct

In addition to all applicable Minnesota Insurance Department market conduct requirements, Lead Agents will be required to comply with all industry-accepted norms, ethics and conduct standards applicable to licensed brokers. Any egregious violation of an ethics and conduct standard may have consequences up to and including de-certification, and the violation will be reported to the Minnesota Department of Commerce and all other appropriate authorities.

Respondents are advised that MNsure may engage “secret shoppers” to test and evaluate the ethical behavior and conduct (including adherence to privacy & security rules) of Lead Agents during the open enrollment season.

Evaluation and Selection Criteria

Lead Agents will be selected based on the following criteria and point scoring:

	CRITERIA	**Maximum Points**
1.	Number of MNsure Certified Agents in Agency and Overall Support Staffing Capability	20
2.	Tech Capabilities and Equipment Availability	15
	• High speed internet service and wireless capabilities 5	
	• Copier and scanner 5	
	• Multiple Phone Lines 5	
3.	Sales and Marketing Plan – Including Agency Commitment to Funds Matching	20
	• Overall Plan (Proposed Activities and Enrollment Forecast) 10	
	• Commitment to Funds (Maximum MNsure matching $10,000) 10	
4.	Physical Location and Space	20
	• Location 5	
	• # Private Meeting Spaces (offices or cubicles) 5	
	• Availability of Group Meeting Space (for presentations) 2	
	• Reception/Waiting Area 2	
	• Parking 2	
	Access to Public Transportation 2	
	Handicap Accessibility 2	
5.	Proposed Hours of Operation	10
	• Weekday Commitment 5	
	• Weekend Commitment 5	
6.	QHP Enrollment Success in the Initial 10/1/13-3/31/14 Open Enrollment Period	15

Preparation of Response to Proposal

When preparing your response please adhere to the following list of requirements and guidelines below. All costs incurred in responding to this solicitation will be borne by the responder.

1. The Responder's proposal must consist of the following sections, in the order listed below:
    a. Cover Letter (Must Include Statement Agreeing to Terms of Contract)
    b. Questionnaire Responses – Part I (Administrative)
    c. Questionnaire Responses – Part 2 (Sales & Marketing Approach)
    d. Questionnaire Responses – Part 3 (Ethics & Conduct; Privacy & Security)
    e. Biographical Sketches for Key Personnel
    f. Required Form – (see "General Requirements, Including Required Form" below)
2. The proposal must be formatted as follows:
    - Paper size: 8.5 x 11 inches
    - Minimum font size: 11 point (except for footnotes, headers or footers)
    - Ready for printing: All electronic files submitted will be pre-formatted for printing
    - Software: All electronic files submitted should be created (or fully compatible) with any of the following software suites or packages: Microsoft Office 2010, Adobe PDF
    - Proposal response not to exceed 10 double-spaced pages for Marketing and Sales Plan and 10 double-spaced pages for the remainder of the response. Biographical sketches are included in page limit. Cover letter and required forms are not included in the page limitations.
3. The Responder is required to submit:
    - One (1) digital copy of the proposal, including an electronic signature by an authorized member of the firm. Subject line of email must read: LEAD AGENCY PARTNERSHIP PROPOSAL

Rights of MNsure in Evaluating Partnership Proposals

Issuance of this solicitation for partnership proposals does not guarantee that MNsure will award a Contract to any Responder. MNsure reserves the right to withdraw, re-bid, extend or otherwise modify this solicitation or the related schedule and process, in any manner, solely at its discretion. All responses received by the deadline will be reviewed by the State or its agents, including representatives of MNsure. Proposals will first be reviewed for responsiveness to determine if the minimum requirements have been met. Proposals that fail to meet minimum requirements will not advance to the next phase of the evaluation. The State reserves the right, based on the scores of the proposals, to interview, or conduct demonstrations/presentations. Any cost incidental for an interview, presentation or demonstration shall be borne entirely by the respondent. The State reserves the right to seek best and final offers from one or more responders. Proposal materials will become public information following respondent selection and the conclusion of contract negotiations with the selected responder.

MNsure also reserves the right to:

- Consider any source of information in evaluating proposals.
- Omit any planned evaluation step if, in MNsure's view, the step is not needed.
- At its sole discretion, reject any and all proposals at any time.

Disqualification

Any attempt by a Responder to influence a member of the evaluation committee during the Proposal review and evaluation process will result in the elimination of that Responder's Proposal from consideration.

Key Dates and Milestones

Activity	Date	Day
Solicitation Release Date	September 25, 2014	Thursday
Question Submittal Deadline	September 29, **12 noon CT**	Friday
Response to Questions	September 30, 3:00 pm CT	Monday
Proposals Due	October 6; **12 noon CT**	Monday
Proposal Reviews Commence	October 6 (estimate)	Monday
Interviews, Presentations and Site Visits (optional)	October 8-10	Wednesday-Friday
Finalists Notified	October 13 (estimate)	Monday
Contract Negotiations	October 14, 2014 (estimate)	Tuesday

The State anticipates implementation to commence on or about October 15, 2014, with full program readiness in place by November 15, 2014.

Contact

Prospective respondents must submit their questions in writing via e-mail to Kevin Donnan-Marsh, Chief Procurement Officer, at Kevin.Marsh@state.mn.us, by 12 noon CT on Monday, September 29.

Responses to all questions received will be made available on MNsure's website on September 30 by 4:00 p.m.

Other personnel are **NOT** authorized to discuss this solicitation with responders at any time during the solicitation period. Contact regarding this solicitation with any personnel other than Kevin Donnan-Marsh, Chief Procurement Officer, could result in disqualification.

Proposal Submission

Proposals must be **emailed** to:

Kevin Donnan-Marsh, Chief Procurement Officer
Email: Kevin.Marsh@state.mn.us

All proposals must be received via email at the above email address **no later than 12 noon, Central Time, October 6, 2014**.

Late proposals will not be accepted. Responses sent via methods other than email including courier, fax, US mail, or express shipment will not be considered or reviewed.

General Requirements (Including Required Form)

Affidavit of Noncollusion

Each responder must complete the attached Affidavit of Noncollusion and include it with the response.

Proposal Contents

By submission of a proposal, the responder warrants that the information provided is true, correct and reliable for purposes of evaluation for potential contract award. The submission of inaccurate or misleading information may be grounds for disqualification from the award as well as subject the responder to suspension or debarment proceedings as well as other remedies available by law.

Disposition of Responses

All materials submitted in response to this solicitation will become property of the State and will become public record in accordance with Minnesota Statutes, section 13.591, after the evaluation process is completed. Pursuant to the statute, completion of the evaluation process occurs when the government entity has completed negotiating the contract with the selected vendor. If the responder submits information in response to this solicitation that it believes to be trade secret materials, as defined by the Minnesota Government Data Practices Act, Minnesota Statute § 13.37, the responder must:

1) Clearly mark all trade secret materials in its response at the time the response is submitted,
2) Include a statement with its response justifying the trade secret designation for each item, and
3) Defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless the State, its agents and employees, from any judgments or damages awarded against the State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the State's award of a contract. In submitting a response to this solicitation, the responder agrees that this indemnification survives as long as the trade secret materials are in possession of the State.

Contingency Fees Prohibited

Pursuant to Minnesota Statutes Section 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

Sample Contract

You should be aware of the State's standard contract terms and conditions in preparing your response. A sample MNsure Professional/Technical Services Contract is attached for your reference. Much of the language reflected in the contract is required by statute. If you take exception to any of the terms, conditions or language in the contract, you must indicate those exceptions in your response to the solicitation; certain exceptions may result in your proposal being disqualified from further review and evaluation. Only those exceptions indicated in your response to the solicitation will be available for discussion or negotiation.

Organizational Conflicts of Interest

The responder warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances that could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons, a vendor is unable or potentially unable to render impartial assistance or advice to the State, or the vendor's objectivity in performing the contract work is or might be otherwise impaired, or the vendor has an unfair competitive advantage. The responder agrees that, if after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to the MNsure Chief Procurement Officer, which must include a description of the action that the contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organization

conflict of interest is determined to exist, the State may, at its discretion, cancel the contract. In the event the responder was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict to MNsure, the State may terminate the contract for default. The provisions of this clause must be included in all subcontracts for work to be performed similar to the service provided by the prime contractor, and the terms “contract,” “contractor,” and “contracting officer” modified appropriately to preserve the State’s rights.

State of Minnesota Affidavit of Noncollusion

I swear (or affirm) under the penalty of perjury:

1) That I am the Responder (if the Responder is an individual), a partner in the company (if the Responder is a partnership), or an officer or employee of the responding corporation having authority to sign on its behalf (if the Responder is a corporation);
2) That the attached proposal submitted in response to the Request for Proposals has been arrived at by the Responder independently and has been submitted without collusion with and without any agreement, understanding or planned common course of action with, any other Responder of materials, supplies, equipment or services described in the Request for Proposal, designed to limit fair and open competition;
3) That the contents of the proposal have not been communicated by the Responder or its employees or agents to any person not an employee or agent of the Responder and will not be communicated to any such persons prior to the official opening of the proposals; and
4) That I am fully informed regarding the accuracy of the statements made in this affidavit.

Responder's Firm Name: _____

Authorized Representative (Please Print) _____

Authorized Signature: _____

Date: _____

Subscribed and sworn to me this _____ day of _____

Notary Public

My commission expires:

If you take exception to any of the terms, conditions or language in the contract, you must indicate those exceptions in your response to the RFP; certain exceptions may result in your proposal being disqualified from further review and evaluation. Only those exceptions indicated in your response to the RFP will be available for discussion or negotiation.

Professional and Technical Services Contract

State of Minnesota

This Contract is between the State of Minnesota, acting through its Chief Executive Officer of Minnesota Insurance Marketplace [MNsure] ("State") and [name of contractor] whose designated business address is _____, an independent contractor, not an employee of the State of Minnesota ("Contractor").

Recitals

1. Under Minnesota Statutes §§ 15.061 and 62V.05, subdivision 1(b)(4), the State is empowered to engage such assistance as deemed necessary.
2. The State is in need of consulting services to assist: [identify needed services].
3. The Contractor represents it is duly qualified and agrees to perform all services described in this Contract to the satisfaction of the State.

Contract

1. Term of Contract

1.1 Effective Date. [insert effective date], or the date State obtains all required signatures, whichever is later. Contractor must not begin work under this Contract until this Contract is fully executed and Contractor has been notified by State's Authorized Representative to begin work.

1.2 Expiration Date. [insert expiration date], or until all obligations have been satisfactorily fulfilled, whichever occurs first.

1.3 Survival of Terms. The following clauses survive the expiration or cancellation of this Contract: 8. Indemnification; 9. State Audits; 10. Government Data Practices and Intellectual Property; 14. Publicity and Endorsement; 15. Governing Law, Jurisdiction, and Venue; and 16. Data Disclosure.

2. Duties

2.1 The Contractor, who is not an employee of the State of Minnesota, shall: _____

2.2 The State shall: _____

3. Time

Contractor must comply with all the time requirements described in this Contract. In the performance of this Contract, time is of the essence.

4. Consideration and Payment

4.1 Consideration. State will pay for all services performed by Contractor under this Contract as follows:

a. Compensation. Contractor will be paid _____

b. Travel Expenses. Reimbursement for travel and subsistence expenses actually and

necessarily incurred by the Contractor as a result of this Contract will not exceed Zero Dollars ($0.00).

c. Total Obligation. The total obligation of State for all compensation and travel expenses to Contractor under this Contract will not exceed _____Dollars ($_____.00).

4.2 Payment

a. Invoices. State will promptly pay Contractor after Contractor presents an itemized invoice for the services actually performed and State's Authorized Representative accepts the invoiced services. The final invoice must be submitted within thirty (30) calendar days of the expiration date.

b. Retainage. Under Minnesota Statutes § 16C.08, subdivision 5(b), no more than ninety percent (90%) of the amount due under this Contract may be paid until the final product of this Contract has been reviewed by State's Authorized Representative. The balance due will be paid when State's Authorized Representative determines that Contractor has satisfactorily fulfilled all the terms of this Contract.

c. Federal Funds. Payments under this Contract will be made from federal funds obtained by State through HHS section 1311 CFDA Number 93.525 of the Patient Protection and Affordable Care Act of 2010. Contractor is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by Contractor's failure to comply with federal requirements.

5. Conditions of Payment

All services provided by Contractor under this Contract must be performed to State's satisfaction, as determined at the sole discretion of State's Authorized Representative and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations including business registration requirements of the Office of the Secretary of State. Contractor will not receive payment for work found by State to be unsatisfactory or performed in violation of federal, state, or local law.

6. Authorized Representative

6.1 The State's Authorized Representative is:

Name:
Address: 81 Seventh Street East, Suite 300
St. Paul, MN 55101
Telephone:
E-Mail Address:

The State's Authorized Representative, or his/her successor, has the responsibility to monitor the Contractor's performance and the authority to accept the services provided under this Contract. If the services are satisfactory, State's Authorized Representative will certify acceptance on each invoice submitted for payment.

6.2 The Contractor's Authorized Representative is:

Name:
Address:

Telephone:
E-Mail Address:

The Contractor must immediately notify the State if the Contractor's Authorized Representative, changes at any time during this Contract.

7. Assignment, Amendments, Waiver, and Contract Complete

7.1 Assignment. Contractor may neither assign or transfer any rights or obligations under this Contract without the prior consent of State and a fully executed assignment agreement, executed and approved by the same parties who executed and approved this Contract, or their successors in office.

7.2 Amendments. Any amendment to this Contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Contract, or their successors in office.

7.3 Waiver. If the State fails to enforce any provision of this Contract, that failure does not waive the provision or its right to enforce it.

7.4 Contract Complete. This Contract contains all negotiations and agreements between State and Contractor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

8. Indemnification

In the performance of this Contract by Contractor, or Contractor's agents or employees, Contractor must indemnify, save, and hold harmless State, its agents, and employees, from any claims or causes of action, including attorney's fees incurred by State, to the extent caused by Contractor's:

a. Intentional, willful, or negligent acts or omissions; or
b. Actions that give rise to strict liability; or
c. Breach of contract or warranty.

The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of State's sole negligence. This clause will not be construed to bar any legal remedies Contractor may have for State's failure to fulfill its obligation under this Contract.

9. State Audits

Under Minnesota Statutes § 16C.05, subdivision 5, Contractor's books, records, documents, and accounting procedures and practices relevant to this Contract are subject to examination by State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six (6) years from the end of this Contract.

10. Government Data Practices and Intellectual Property

10.1 Government Data Practices. The Contractor and State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the State under this Contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor under this Contract. The civil remedies of Minnesota Statutes § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minnesota Statutes Chapter 13, by either the Contractor or the State.

If the Contractor receives a request to release the data referred to in this clause, the Contractor must immediately notify and consult with the State's Authorized Representative as to how the Contractor should respond to the request. The Contractor's response to the request shall comply with applicable law.

Additionally, Contractor and State must comply with the requirements contained in Attachment 1, which is incorporated by reference into this Contract.

10.2 Intellectual Property Rights

a. Intellectual Property Rights. The State owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the works and documents created and paid for under this Contract. The "works" means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the Contractor, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this Contract. "Works" includes documents. The "documents" are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Contractor, its employees, agents, or subcontractors, in the performance of this Contract. The documents will be the exclusive property of the State and all such

documents must be immediately returned to the State by the Contractor upon completion or cancellation of this Contract. To the extent possible, those works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made for hire." The Contractor assigns all right, title, and interest it may have in the works and the documents to the State. The Contractor must, at the request of the State, execute all papers and perform all other acts necessary to transfer or record the State's ownership interest in the works and documents.

b. Obligations

(1) Notification. Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Contractor, including its employees and subcontractors, in the performance of this Contract, the Contractor will immediately give the State's Authorized Representative written notice thereof, and must promptly furnish the State's Authorized Representative with complete information and/or disclosure thereon.

(2) Representation. The Contractor must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the works and documents are the sole property of the State, and that neither Contractor nor its employees, agents, or subcontractors retain any interest in and to the works and documents. The Contractor represents and warrants that the works and documents do not and will not infringe upon any intellectual property rights of other persons or entities. Notwithstanding Clause 8, the Contractor will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the State, at the Contractor's expense, from any action or claim brought against the State to the extent that it is based on a claim that all or part of the works or documents infringe upon the intellectual property rights of others. The Contractor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Contractor's or the State's opinion is likely to arise, the Contractor must, at the State's discretion, either procure for the State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing works or documents as necessary and appropriate to obviate the infringement claim. This remedy of the State will be in addition to and not exclusive of other remedies provided by law.

11. Workers Compensation and Other Insurance

11.1 Contractor shall not commence work under the Contract until Contractor has obtained all the insurance described below. Contractor shall maintain such insurance in force and effect throughout the term of the Contract.

11.2 Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies.

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

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

If Minnesota Statutes § 176.041 exempts Contractor from Workers Compensation insurance or if Contractor has no employees in the State of Minnesota, Contractor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Contractor from the Minnesota Workers Compensation requirements.

If during the course of the contract Contractor becomes eligible for Workers Compensation, Contractor must comply with the Workers Compensation Insurance requirements herein and provide State with a certificate of insurance.

Further, Contractor certifies that it is in compliance with Minnesota Statutes § 176.181, subdivision 2, pertaining to workers compensation insurance coverage. Contractor's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers Compensation Act on behalf of these employees or agents and any claims made by any third party as a consequence of any act or omission on the part of these employees or agents are in no way State's obligation or responsibility.

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

$1,000,000 – per occurrence
$1,000,000 – annual aggregate
$1,000,000 – annual aggregate – Products/Completed Operations

The following coverages shall be included:

Premises and Operations Bodily Injury and Property Damage
Personal and Advertising Injury
Blanket Contractual Liability
Products and Completed Operations Liability
State of Minnesota named as an Additional Insured, to the extent permitted by law.

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

$1,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

The following coverage shall be included:

Owned, Hired, and Non-owned Automobile

11.2.4 **Professional/Technical, Errors and Omissions, and/or Miscellaneous Liability Insurance.** This policy will provide coverage for all claims Contractor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Contractor's professional services required under the contract. Contractor is required to carry the following minimum limits:

$1,000,000 – per claim or event
$1,000,000 – annual aggregate

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

The retroactive or prior acts date of such coverage shall not be after the effective date of this Contract and Contractor shall maintain such insurance for a period of at least three (3) years, following completion of the work. If such insurance is discontinued,

extended reporting period coverage must be obtained by Contractor to fulfill this requirement.

11.3 Additional Insurance Conditions

11.3.1 Contractor's policy(ies) shall be primary insurance to any other valid and collectible insurance available to State with respect to any claim arising out of Contractor's performance under this contract;

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

11.3.3 Contractor is responsible for payment of Contract related insurance premiums and deductibles;

11.3.4 Contractor's policy(ies) shall include legal defense fees in addition to its liability policy limits, with the exception of 11.2.4 above;

11.3.5 Contractor shall obtain insurance policy(ies) from insurance company(ies) having an "AM BEST" rating of A- (minus); Financial Size Category (FSC) VII or better, and authorized to do business in the State of Minnesota; and

11.3.6 An Umbrella or Excess Liability insurance policy may be used to supplement the Contractor's policy limits to satisfy the full policy limits required by the Contract.

12. Debarment by State, its Departments, Commissions, Agencies, or Political Subdivisions

Contractor certifies that neither it nor its principals is presently debarred or suspended by the State of Minnesota, or any of its departments, commissions, agencies, or political subdivisions. Contractor's certification is a material representation upon which the Contract award was based. Contractor shall provide immediate written notice to State's Authorized Representative if at any time it learns that this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.

13. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion

Federal money will be used to pay for all or part of the work under the Contract; therefore Contractor certifies that it is in compliance with federal requirements on debarment, suspension, ineligibility and voluntary exclusion specified in the solicitation document implementing Executive Order 12549. Contractor's certification is a material representation upon which the Contract award was based. By signing and submitting this Contract, Contractor is providing the certification set out below.

13.2 The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, State may pursue available remedies, including suspension and/or debarment.

13.3 Contractor shall provide immediate written notice to State's Authorized Representative if at any time Contractor learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

13.4 The terms *covered transaction*, *debarred*, *suspended*, *ineligible*, *lower tier covered transaction*, *participant*, *person*, *primary covered transaction*, *principal*, *propos*al, and *voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and Coverages sections of rules implementing Executive Order 12549.

13.5 Contractor agrees that upon execution of this this Contract, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

13.6 Contractor further agrees that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

13.7 A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

13.8 Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

13.9 Except for transactions authorized under paragraph 13.5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, State may pursue available remedies, including suspension and/or debarment.

13.10 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

13.10.1 Contractor certifies, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

13.10.2 Where Contractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

14. Publicity and Endorsement

14.1 Publicity. Any publicity regarding the subject matter of this Contract must identify State as the sponsoring agency and must not be released without prior written approval from State's Authorized Representative. For purposes of this provision, publicity includes any and all communications with the media or press with respect to the program, publications, or services provided resulting from this Contract, and any notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for Contractor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

14.2 Endorsement. Contractor must not claim that State endorses its products or services.

15. Governing Law, Jurisdiction, and Venue

Minnesota law, without regard to its choice-of-law provisions, governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

16. Data Disclosure

Under Minnesota Statutes § 270C.65, subdivision 3 and other applicable law, Contractor consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to State, to federal and state agencies, and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring Contractor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.

17. Payment to Subcontractors

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

18. Termination

18.1 Termination by the State. State may cancel this Contract at any time, with or without cause, upon thirty (30) calendar days written notice to Contractor. Upon termination, Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

18.2 Termination for Insufficient Funding. State may immediately terminate this Contract if it does not obtain funding from the Minnesota Legislature, or other funding sources, or if funding is not received or made available at a level sufficient to allow for the payment of the services covered here. Termination must be by written, e-mail or fax notice to Contractor. State is not obligated to pay for any services that are provided after notice and effective date of termination. However, Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. State will not be assessed any penalty if the Contract is terminated because of the decision of the Minnesota Legislature, or other funding sources, not to appropriate funds or to otherwise prohibit such use of or deny access to funds. State must provide Contractor notice of the lack of funding within a reasonable time of State receiving that notice.

19. Non-discrimination (In accordance with Minnesota Statutes § 181.59)

Contractor will comply with the provisions of Minnesota Statutes § 181.59 which requires:

"Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the contractor agrees:

(1) that, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;

(2) that no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color;

(3) that a violation of this section is a misdemeanor; and

(4) that this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract."

20. Counterparts

This contract may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute on and the same agreement.

21. Accessibility for Individuals with Disabilities (as applicable)

Materials created under this Contract must include usability features or functions that accommodate the needs of persons with disabilities and/or limited English language proficiency, according to state and federal law as applied to the State. All materials created under this Contract must comply with the Minnesota IT Accessibility Standards effective September 1, 2010, which entails, in part, the Web Content Accessibility Guidelines (WCAG) 2.0 (Level AA) and Section 508 Subparts A-D, which can be viewed at: http://www.mmd.admin.state.mn.us/pdf/accessibility_standard.pdf .

22. Nonvisual Access Standards (as applicable)

Materials created under this Contract must comply with nonvisual access standards, which require the following:

(1) The effective interactive control and use of the technology, including the operating system, applications programs, prompts, and format of the data presented, are readily achievable by nonvisual means;

(2) That the nonvisual access technology must be compatible with information technology used by other individuals with whom the blind or visually impaired individual must interact;
(3) That nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and
(4) That the nonvisual access technology must have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

1 STATE ENCUMBRANCE VERIFICATION

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

Signed: _____

Date: _____

SWIFT Contract No. _____

2 CONTRACTOR

The Contractor certifies that the appropriate person has executed the contract on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

By: _____

Title: _____

Date: _____

3 MNsure

By: _____
(with delegated authority)

Title: _____

Date: _____

CONTRACT ATTACHMENT 1 – DATA SHARING AGREEMENT

This Data Sharing Agreement ("Agreement") is by and between MNsure ("MNsure" or "State") and _____ ("Contractor").

WHEREAS, the parties have executed a Contract for _____;

WHEREAS, MNsure is subject to the Minnesota Government Data Practices Act by Minnesota Statutes, section 62V.06, subd. 1, and is authorized to enter into the below agreement by Minnesota Statutes, section 62V.05, subdivision 1(b)(5); and

WHEREAS, MNsure is authorized to share protected information pursuant to Minnesota Statutes, section 62V.06, subdivisions 5(b)(5) and 5(d).

Agreement

1. Term of Agreement

1.1 ***Effective date:*** _____, 2014, or the date the State obtains all required signatures, whichever is later.

1.2 ***Expiration date***: _____, 2014, or until all obligations have been satisfactorily fulfilled, or until any applicable statutory authority expires, whichever comes first.

2. Information Covered by this Agreement.

2.1 Under this Agreement, MNsure will be sharing with Contractor one or more types of private information, collectively referred to as "protected information," concerning individuals, employers, and/or employees participating in MNsure . "Protected information," for purposes of this Agreement, may include any or all of the following:

2.1.1 Private data (as defined in Minnesota Statutes § 13.02, subd. 12), confidential data (as defined in Minn. Stat. § 13.02, subd. 3), welfare data (as governed by Minn. Stat. § 13.46), medical data (as governed by Minn. Stat. § 13.384), and other not public data governed by other sections in the Minnesota Government Data Practices Act (MGDPA), Minn. Stats. Chapter 13;

2.1.2 Protected health information ("PHI") (as defined in and governed by the Health Insurance Portability Accountability Act ("HIPAA"), 45 C.F.R. § 160.103);

2.1.3 Federal Tax Information ("FTI") (as defined by IRC § 6103);

2.1.4 Records (as defined by the Privacy Act of 1974, 5 U.S.C. § 552a; and

2.1.5 Other data subject to applicable State and federal statutes, rules, and regulations affecting the collection, storage, use, or dissemination of private or confidential information.

3. Duties

3.1 MNsure Duties. MNsure shall:

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

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

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

(d) Not request Contractor to use or disclose protected information in any manner that would not be permitted under law if done by MNsure.

3.2 Contractor Duties. Contractor shall:

(a) Be responsible for ensuring proper handling and safeguarding by its employees, subcontractors, and authorized agents of protected information collected, created, used, maintained, or disclosed on behalf of MNsure. This responsibility includes:

1. conducting appropriate screening and monitoring of its employees and agents to protect information privacy;
2. ensuring that employees and agents comply with and are properly trained regarding, as applicable, the laws listed above in clause 1; and
3. implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentially, integrity, and availability of any protected information at rest and in transit that it creates, receives, maintains, or transmits on behalf of MNsure.

(b) Comply with the "minimum necessary" access and disclosure rule set forth in the MGDPA. The collection, creation, use, maintenance, and disclosure of protected information shall be limited to that necessary for the administration and management of programs specifically authorized by the legislature or local governing body or mandated by the federal government. Minnesota Statutes § 13.05 subdivision 3.

(c) Report to MNsure any privacy or security incident regarding the information of which it becomes aware. For purposes of this Agreement, "Security incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. Security incident shall not include pings and other broadcast attacks on Contractor's firewall, port scans, unsuccessful log-on attempts, denials of service, and any combination of the above when using Contractor equipment and infrastructure; so long as such incidents do not result in unauthorized access, use or disclosure of MNsure's information. "Privacy incident" means violation of the Minnesota Government Data Practices Act (MGDPA) and/or the including, but not limited to, improper and/or unauthorized use or disclosure of protected information, and incidents in which the confidentiality of the information maintained by it has been breached. This report must be made in writing and submitted to MNsure immediately and in no case more than 2 days after learning of such incident.

(d) Unless provided for otherwise in this Agreement, if Contractor receives a request to release the information referred to in this Clause, Contractor must immediately notify MNsure. MNsure will give Contractor instructions concerning the release of the data to the requesting party before the data is released.

(e) Not use or further disclose protected information created, collected, received, stored, used, maintained, or disseminated in the course or performance of this Agreement other than as permitted or required by this Agreement or as required by law, either during the period of this Agreement or hereafter.

(f) In accordance with Minnesota Statutes § 62V.06, subdivision 9, Contractor may not sell any data collected, created, or maintained by MNsure, regardless of its classification, for commercial or any other purposes.

(g) Consistent with this Agreement, ensure that any agents (including contractors and subcontractors), analysts, and others to whom it provides protected information, agree in writing to be bound by the same restrictions and conditions that apply to it with respect to such information.

(h) To the extent that any protected information is PHI:

1. Comply with the minimum necessary rule and limit the collection, creation, use, maintenance, and disclosure of PHI to "that necessary for the administration and management of programs specifically authorized by the legislature or local governing body or mandated by the federal government." See 45 C.F.R. §§ 164.502(b) and 164.514(d).
2. Report any breach or security incident pursuant to the HIPAA Privacy Rule (45 C.F.R. Part 164, Subpart E). This report must be in writing and sent to MNsure not more than 2 days after learning of such non-permitted use or disclosure. Such a report will at least:

   (A) Identify the nature of the non-permitted use or disclosure;

   (B) Identify the PHI used or disclosed;

   (C) Identify who made the non-permitted use or disclosure and who received the non-permitted or violating disclosure;

   (D) Identify what corrective action was taken or will be taken to prevent further non-permitted uses or disclosures;

   (E) Identify what was done or will be done to mitigate any deleterious effect of the non-permitted use or disclosure; and

(F) Provide such other information, including any written documentation, as MNsure may reasonably request.

(G) Provide notice required by 45 C.F.R. §§ 164.404 through 164.408 to affected individuals, news media, and/or the Office of Civil Rights, Department of Health and Human Services, only upon direction from and in coordination with MNsure.

3. In accordance with 45 C.F.R. §§ 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree in writing to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information.
4. Within ten (10) business days of a request from an individual or their designee, make available protected health information in a designated record set, consistent with Minn. Stat. § 13.04, subdivision 3, and 45 C.F.R.§ 164.524.
5. Within ten (10) business days, forward any request to make any amendment(s) to protected health information in a designated record set to MNsure in order for MNsure to satisfy its obligations under Minnesota Statutes § 13.04, subdivision 3 and 45 C.F.R. §164.526.
6. Document such disclosures of PHI and information related to such disclosures as would be required for MNsure to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. Maintain and make available no later than fifteen (15) days after receipt of request from MNsure, the information required to provide an accounting of disclosures to MNsure as necessary to satisfy MNsure's obligations under 45 C.F.R. §164.528, or upon request from MNsure respond directly to individual's request for an accounting of disclosures.
7. To the extent the business associate is to carry out one or more of MNsure's obligation(s) under Subpart E of 45 C.F.R. Part 164, comply with the requirements of Subpart E that apply to MNsure in the performance of such obligation(s).
8. Make its internal practices, books, and records available for purposes of determining compliance with the HIPAA Rules.
9. Contractor may not use or disclose protected health information in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by MNsure.
10. Comply with any and all other applicable provisions of the HIPAA Privacy Rule, Administrative, and Security Standards, including future amendments thereto. Develop written policies and procedures for safeguarding and securing PHI and complying with HIPAA and the HITECH Act, and other privacy laws.
11. Designate a privacy official to be responsible for the development and implementation of its policies and procedures as required by 45 C.F.R. Part 164, Subpart E.

(i) To the extent that any protected information is FTI, ensure that this data only be used as authorized under the Patient Protection and Affordable Care Act and the Internal Revenue Code, 26 U.S.C. § 6103(C), and IRS Publication 1075, and restrict from use for any other purpose.

(j) Mitigate, to the extent practicable, any harmful effects known to it of a use, disclosure, or breach of security with respect to protected information by it in violation of this Agreement.

(k) Report and mitigate any fraudulent activities;

(l) Comply with any and all other applicable provisions of the Final Exchange Privacy Rule at 45 C.F.R. § 155.260, including future amendments thereto.

4. Disposition of Data upon Completion, Expiration, or Agreement Termination. Upon completion, expiration, or termination of this Agreement, Contractor will return to MNsure or destroy all protected information received or created on behalf of MNsure for purposes associated with this Agreement. A written certification of destruction or return to the MNsure Authorized Representative is required. Contractor will retain no copies of such protected information. If both parties agree that such return or destruction is not feasible, or if Contractor is required by the applicable regulation, rule or statutory retention schedule to retain beyond the life of this Agreement, Contractor will extend the protections of this Agreement to the protected information and refrain from further use or disclosure of such information, except for those purposes that make return or destruction infeasible, for as long as Contractor maintains the information.

5. Amendments

Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original agreement, or their successors in office.

6. Sanctions

In addition to any liability under section 6 of Agreement, the parties acknowledge that violation of the laws and protections described above could result in limitations being placed on future access to protected information, in investigation and imposition of sanctions by the U.S. Department of Health and Human Services, Office for Civil Rights, and/or in civil and criminal penalties.

7. Interpretation.

Any ambiguity in this Agreement shall be resolved to permit the parties to comply with HIPAA, MDGPA, and other applicable state and federal statutes, rules, and regulations affecting the collection, storage, use and dissemination of private or confidential information.

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

9. Effect of statutory amendments or rule changes.

The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the laws listed in paragraph 1 of this section or in any other applicable law. However, any requirement in this Agreement or in the DHS Information Security Policy that is based upon HIPAA Rules or upon other federal or state information privacy or security laws means the requirement as it is currently in effect, including any applicable amendment(s), regardless of whether the Agreement has been amended to reflect the amendments(s).

10. Survival.

The obligations of Contractor under this Attachment shall survive the termination of this Agreement

1. CONTRACTOR

By: _____
(With delegated authority)

Title: _____

Date: _____

2. MNsure

By: _____
(With delegated authority)

Title: _____

Date: _____