

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: eCivis Grants Locator® Subscriber Access Service Agreement

DEPARTMENT: Fiscal Services **DIVISION:** Grants Administration

AUTHORIZED BY: Lisa Spriggs  **CONTACT:** Jennifer Bero  **EXT.** 7125

Agenda Date <u>01/24/06</u> Regular <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Work Session <input type="checkbox"/> Briefing <input type="checkbox"/> Public Hearing – 1:30 <input type="checkbox"/> Public Hearing – 7:00 <input type="checkbox"/>
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MOTION/RECOMMENDATION:

Approve and authorize the Chairman to execute Subscription Service Agreements for non-profit agencies to access the eCivis Grants Locator®.

BACKGROUND:

The board has communicated its desire to increase the assistance provided to local service agencies. In response, access to eCivis Grants Locator® is being offered to those agencies currently receiving funds through the Community Service Assistance Program for the identification of grant opportunities.

To initiate access procedures, an agreement is needed between Seminole County and the respective agencies. Execution of the agreement will ensure compliance with the subscription requirements of eCivis Grants Locator®.

Request board approval and authorization for the chairman to execute each agreement as the selected agencies agree to accept access to the service.

Attachments:

- List of Community Service Agency Grant Program Recipients
- eCivis Grants Locator® Subscriber Access Service Agreement

Reviewed by:
Co Atty: 
DFS: _____
Other: _____
DCM: <u>SS</u>
CM: <u>JB</u>
File No. <u>CFSA01</u>

NON-PROFIT AGENCIES PARTICIPATING IN THE COMMUNITY SERVICE AGENCY GRANT PROGRAM

211 Community Resources
Boys & Girls Clubs of Central Florida, Inc.
Christian Sharing Center, Inc.
Community Based Care of Seminole, Inc.
Girls and Boys Town of Central Florida
Harvest Time International
Hospice of the Comforter
Jewish Family Services
Kids House of Seminole, Inc.
CITE - The Lighthouse for Central Florida, Inc.
Meals on Wheels, Etc., Inc.
Pathways to Care
Rescue Outreach Mission
Safehouse of Seminole County
The Salvation Army
Second Harvest Food Bank
Seminole Community Volunteer Program, Inc.
Seminole County Coalition for School Readiness
Seminole County Healthy Start Coalition, Inc.
Seminole County Special Olympics
Seminole Work Opportunity Program (SWOP)
UCP Seminole Child Development Center
Visiting Nurse Association of Central Florida

DRAFT

SEMINOLE COUNTY/_____, INC.
eCivis GRANTS LOCATOR® SUBSCRIBER ACCESS SERVICE AGREEMENT
FISCAL YEAR 2005-2006

THIS AGREEMENT entered into this ____ day of _____, 2006,
by and between SEMINOLE COUNTY, a political subdivision of the State
of Florida, whose address is 1101 E. First Street, Sanford, Florida
32771, hereinafter referred to as "COUNTY" and _____,
a non-profit Florida corporation organized under the laws of the State
of Florida, whose principle place of business is
_____, hereinafter referred
to as "SUBSCRIBER".

W I T N E S S E T H:

WHEREAS, the COUNTY has heretofore entered into a
subscription/license agreement with eCivis, Inc. of Pasadena,
California for the purpose of acquiring user access to its on-line
databases of listed Federal, State and private grants that are
available for local governments and non-profit social service agencies
(the "License Agreement"); and

WHEREAS, the License Agreement allows the COUNTY to enter into
subscriber agreements for access to the eCivis Grants Locator Access
system with not-for-profit social service agencies performing services
within the COUNTY; and

WHEREAS, the COUNTY and SUBSCRIBER believe that shared access to
such databases will enhance the ability of both parties to provide
increased funding opportunities for important social services
benefiting the citizens of COUNTY; and

WHEREAS, COUNTY and SUBSCRIBER desire to enter into this Subscriber Agreement ("the Agreement") to memorialize their understandings and respective responsibilities in a framework that best assures compliance with the terms of the License Agreement; and

WHEREAS, the Board of County Commissioners has, by adoption of Resolution 2006-R-_____ authorized the County Manager or his/her designee to enter into this Agreement on behalf of the COUNTY,

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

SECTION 1. RECITALS. The above recitals are true and correct and form a material part of the agreement upon which the parties have relied.

SECTION 2. DEFINITIONS.

(a) "Access Holder" shall mean COUNTY, SUBSCRIBER or any individual employee or agent of either organization that is an approved, identified user of Grants Locator.

(b) "Community Based Organization" shall mean an entity that meets the criteria specified in section 4(h) of this Agreement.

(c) "COUNTY approval" means written approval by the Grants Coordinator, the Fiscal Services Department Director, or their designee.

(d) "Grants Coordinator" shall mean the COUNTY's designated Grants Coordinator within the Fiscal Services Department.

(e) "Grants Locator" shall mean the most current version of the online grants database libraries available through eCivis, Inc. and which is the subject matter of this Agreement.

SECTION 3. RESPONSIBILITIES OF COUNTY.

(a) Upon SUBSCRIBER's execution of this Agreement and completion of the Grants Locator Sign-Up Sheet, attached hereto as Exhibit "A" to this Agreement and incorporated herein by reference, COUNTY shall provide a login identification and initial password to Subscriber at no cost. Such login and password shall provide SUBSCRIBER with full access to Grants Locator databases.

(b) COUNTY shall be responsible for paying the access and user fees to eCivis, Inc. for the term of this Agreement and any renewals thereof. Such services shall include start up training for users and basic customer service. The foregoing notwithstanding, COUNTY shall not be responsible for additional services, training or ancillary features not described herein which may be specially requested by SUBSCRIBER. Procurement of such additional services or training shall require an amendment to this Agreement or a separate agreement for the assessment and collection of such additional charges from SUBSCRIBER.

(c) The Grants Coordinator or his/her designee shall be reasonably available to SUBSCRIBER to provide guidance on the usage of Grants Locator; provided, however, that this provision shall not be construed to relieve SUBSCRIBER from any duties or obligations set forth herein.

(d) COUNTY shall monitor the access logs, reports of retrieved information and usage of SUBSCRIBER to insure that no unauthorized use or abuse of user access is taking place.

SECTION 4. RESPONSIBILITIES OF SUBSCRIBER.

(a) SUBSCRIBER shall abide by all requirements within this Agreement, the License Agreement, including the applicable Terms and Conditions therein (included as Attachment "B" hereto), and any additional conditions that may be agreed upon from time to time between COUNTY and eCivis, Inc.

(b) SUBSCRIBER shall agree to cooperate with the COUNTY in monitoring usage and other statistics related to use of Grants Locator, including but not limited to those collected by Grants Locator.

(c) SUBSCRIBER shall provide contact information for all employees designated as users.

(d) SUBSCRIBER shall receive usernames and passwords from the COUNTY for access to service.

(e) SUBSCRIBER shall cooperate with all legal oversight, negotiation, or changes to any further enhancements, renewal or extension of services contemplated by this Agreement, or other edits that may be required for the License Agreement from time to time.

(f) SUBSCRIBER shall not engage in any action or usage of Grants Locator which would cause COUNTY to violate any of the Terms and Conditions of its License Agreement.

(g) SUBSCRIBER understands and agrees that user identifications and passwords issued by COUNTY may only be used by the individual(s)

or the incumbent of a position listed on the Grants Locator Sign-Up Sheet (Exhibit "A") and only for purposes that benefit the citizens of Seminole County and in accordance with this Agreement. Sharing of any employee's user identification and password with another employee, agent, vendor, customer or client of SUBSCRIBER or any other person is expressly prohibited unless such use has been previously approved in writing by COUNTY. Violation of this provision shall be grounds for unilateral termination of this Agreement by COUNTY and shall result in termination of SUBSCRIBER's access rights to Grants Locator.

(h) SUBSCRIBER shall notify COUNTY in a timely manner when an employee, agent or other permitted user of Grants Locator is no longer acting on behalf of SUBSCRIBER. COUNTY shall promptly deactivate that user identification and password upon receipt of such notice.

(i) Throughout the term of this Agreement and any renewals thereof, SUBSCRIBER shall be required to:

- (1) maintain an office within Seminole County;
- (2) offer services that directly benefit the residents of Seminole County;
- (3) offer its services on a nondiscriminatory basis in compliance with all Federal and State anti-discrimination laws;
- (4) maintain its status as a tax exempt organization under Section 501(c) of the Internal Revenue Code.
- (5) provide quarterly reports to COUNTY which shall contain the types and amounts of grants for which application has been made, the name of the agency or philanthropic organization from which the grants are being sought, a list of those grants which have been

successfully obtained, a list of those for which the award was denied to include the reason for denial, if known. For those applications which are pending at the time of reporting, an estimate of the award timetable shall also be included, if determinable.

SECTION 5. TERM. This Agreement shall commence upon the date of execution by both parties. The initial term hereof shall terminate on September 30, 2006, the same as the termination date of the License Agreement. This Agreement may be renewed for successive one (1) year terms, ending on September 30th of said year, subject to COUNTY's renewal of its License Agreement with eCivis, Inc. Renewal or extension of the term of this Agreement shall be done in a writing of equal dignity herewith and signed by both parties and shall be contingent upon COUNTY's unilateral decision of whether or not to renew the License Agreement with eCivis, Inc. Nothing herein shall be construed as requiring COUNTY to renew the License Agreement or to incur any further costs on behalf of SUBSCRIBER beyond the initial term hereof.

SECTION 6. NOTICES. Whenever either party desires to give notice unto the other, it must be given by written notice, sent by first class United States mail addressed to the party for whom it is intended at the place last specified. The place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving of notice, to wit:

For COUNTY:

Jennifer Bero or current Grants Coordinator
Seminole County Fiscal Services Department
1101 E. First Street
Sanford, Florida 32771

For SUBSCRIBER:

The parties may effect changes or substitution to the names and addresses of the contact persons by written notice to the other party, which notice can also be sent via facsimile transmission, provided that a record of such communication shall be maintained by both parties.

SECTION 7. TERMINATION.

(a) SUBSCRIBER may terminate this Agreement at any time for any reason provided that written notice of same shall be given to COUNTY at least fifteen (15) days prior to the effective date of such termination. In such event, COUNTY shall terminate SUBSCRIBER's user identification and password on the effective date of termination.

(b) COUNTY may terminate or refuse to renew this Agreement at its sole discretion if it determines that continued provision of Grants Locator access service to SUBSCRIBER is no longer in the best interest of the COUNTY. In such circumstances, the COUNTY shall give SUBSCRIBER at least thirty (30) days notice of such intent to terminate and SUBSCRIBER shall then have an additional thirty (30) days to make other arrangements for procuring similar services from other sources.

(c) If the COUNTY decides to terminate this Agreement for non-convenience in the manner provided herein, it shall refund to SUBSCRIBER the unused, prorated amount of any fees or charges for ancillary or enhanced services outside the basic service contemplated in this initial Agreement or any amendment thereto. The COUNTY shall have no other liabilities to SUBSCRIBER whatsoever.

(d) If COUNTY learns that Grants Locator is no longer available from eCivis, Inc. by virtue of that firm's unilateral business decision, insolvency, legal proceedings or any other reason not the fault of COUNTY, this Agreement may be terminated immediately at the option of either of both parties hereto upon written notice of termination. Under those circumstances, the COUNTY shall not be financially obligated to SUBSCRIBER in any manner whatsoever.

SECTION 8. LIABILITY AND INDEMNIFICATION.

(a) Each party to this Agreement is responsible for all personal injury and property damage attributable to the negligent acts or omissions arising out of this Agreement of that party and the officers, employees and agents thereof.

(b) The parties further agree that nothing contained herein shall be construed or interpreted as denying to any party any remedy or defense available to such parties under the laws of the State of Florida, nor as a waiver of the County's sovereign immunity beyond the waiver provided for in Section 768.28, Florida Statutes.

(c) Except for payment of certain fees and charges as specifically set forth in this Agreement, the COUNTY shall not be liable to SUBSCRIBER or any other person, firm, entity or corporation

who contracts with, or who relies upon SUBSCRIBER in connection with SUBSCRIBER's usage of the Grants Locator, or for debts or claims accruing to such parties against SUBSCRIBER as a result thereof and which may arise by virtue of any adverse results or failure to achieve desired results through utilization of Grants Locator or the malfeasance of SUBSCRIBER.

SECTION 9. INDEPENDENT CONTRACTORS. It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing a relationship of copartners between the parties, or as constituting SUBSCRIBER, including its officers, employees and agents, the agent, representative or employee of the COUNTY for any purpose or in any manner whatsoever. The parties are to be and shall remain independent contractors with respect to all matters pertinent to this Agreement.

SECTION 10. DISCLAIMER OF THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the formal parties hereto and no right or cause of action shall accrue under or by reason hereof to or for the benefit of any third party not a formal party hereto. Neither party shall assign this Agreement nor any interest herein without the prior written consent of the other party.

SECTION 11. INSURANCE REQUIREMENTS. SUBSCRIBER shall be responsible for maintaining adequate insurance coverage against claims by third persons arising from the use, misuse and/or reliability of the Grants Locator. COUNTY shall maintain adequate insurance coverage to protect its own interests and obligations under this Agreement.

SECTION 12. EQUAL OPPORTUNITY EMPLOYMENT. The parties agree that they will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, national origin or disability and will take steps to ensure that applicants are employed, and employees are treated during employment, without regard to race, color, religion, sex, age, national origin or disability. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

SECTION 13. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida and the parties consent to venue in the Circuit Court in and for Seminole County, Florida, as to State actions and the United States District Court for the Middle District of Florida as to Federal actions.

SECTION 14. INTERPRETATIONS. In the event any provision of this Agreement conflicts with, or appears to conflict with, the other terms of this Agreement including exhibits or attachments hereto, if any, this Agreement shall be interpreted as a whole to resolve any inconsistency. The parties agree to engage in positive and constructive communication to ensure that the positive collaboration of the parties occurs.

SECTION 15. FORCE MAJEURE. In the event either party hereunder fails to satisfy in a timely manner any requirements imposed by this Agreement due to a hurricane, flood, tornado or other act of God or force majeure, then said party shall not be in default hereunder;

provided, however, that performance shall recommence upon such event ceasing its effect.

SECTION 16. MODIFICATIONS, AMENDMENTS OR ALTERATIONS. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith; provided, however, no formal amendment shall be required for mere changes or substitution of designated contact persons per Section 6 hereof.

SECTION 17. BINDING EFFECT. This Agreement shall be binding upon and inure to the benefit of the parties hereto and the successors in interest, transferees and designees of the parties.

SECTION 18. PUBLIC RECORDS. Each party shall allow public access to all documents, papers, letters or other materials which have been made or received in conjunction with this Agreement in accordance with Chapter 119, Florida Statutes.

SECTION 19. RECORDS AND AUDITS. The parties agree to maintain all books, documents, papers, accounting records and other evidences pertaining to this Agreement in such a manner as will readily conform to the terms of this Agreement and to make such materials available at all reasonable times during the Agreement period and for five (5) years from the date of termination or final payment under the contract for audit or inspection.

SECTION 20. CONFLICTS OF INTEREST.

(a) The parties agree that they will not engage in any action that would create a conflict of interest in the performance of their

obligations pursuant to this Agreement or which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, or Section 220.115, Seminole County Code, both relating to ethics in government.

(b) The parties hereby certify that no officer, agent or employee has any material interest (as defined in Section 112.312(15), Florida Statutes, as over 5%) either directly or indirectly in the business of the party to be conducted hereunder and that no such person shall have any such interest at any time during the term of this Agreement.

(c) The parties hereby agree that Federal or State grant monies which may be received as a result of activities under this Agreement shall not be used for the purpose of lobbying any branch of government, department, agency or employee of the State or Federal government.

SECTION 21. COMPLIANCE WITH LAWS AND REGULATIONS. In performing under this Agreement, the parties shall abide by all statutes, ordinances, rules and regulations pertaining to or regulating the acts contemplated to be performed herein including those now in effect and hereafter adopted. Any material violation of said statutes, ordinances, rules or regulations shall constitute a material breach of this Agreement and entitle the non-violating party to terminate this Agreement immediately upon delivery of written notice of termination to the violating party.

SECTION 22. DISPUTE RESOLUTION.

(a) In the event of a dispute related to any performance or payment obligation arising under this Agreement, the parties agree to

exhaust COUNTY protest procedures prior to filing suit or otherwise pursuing legal remedies. Contract claims shall include all controversies, except disputes addressed by the "Prompt Payment Procedures," arising under this Agreement and COUNTY protest procedures therefore are set forth in Section 22.239, "Contract Claims," Seminole County Administrative Code.

(b) SUBSCRIBER agrees that it will file no suit or otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration in the COUNTY protest procedures set forth in subsection (a) above of which the SUBSCRIBER had knowledge and failed to present during the COUNTY protest procedures.

(c) In the event that COUNTY protest procedures are exhausted and a suit is filed or legal remedies are otherwise pursued, the parties shall exercise best efforts to resolve disputes through voluntary mediation. Mediator selection and the procedures to be employed in voluntary mediation shall be mutually acceptable to the parties. Costs of voluntary mediation shall be shared equally among the parties participating in the mediation.

SECTION 23. CONSTRUCTION OF AGREEMENT. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both parties contributed substantially and materially to the preparation hereof.

SECTION 24. HEADINGS. All sections and descriptive headings in this Agreement are inserted for convenience only and shall not affect the construction or interpretation hereof.

SECTION 25. ENTIRE AGREEMENT. This Agreement states the entire understanding between the parties and supersedes any written or oral representations, statement, negotiations or agreements to the contrary. This Agreement shall bind the parties, their assigns and successors in interest.

SECTION 26. EXHIBITS. Exhibits "A" and "B" to this Agreement shall be deemed to be incorporated into this Agreement as if fully set forth verbatim into the body of this Agreement.

SECTION 27. SEVERABILITY. If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can continue to be affected. To that end, this Agreement is declared severable.

SECTION 28. COUNTERPARTS. This Agreement may be executed in any number of counterparts each of which, when executed and delivered, shall be an original, but all counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below.

ATTEST:

SUBSCRIBER

By: _____

Date: _____

[CORPORATE SEAL]

WITNESSES:

SEMINOLE COUNTY, FLORIDA

Witness

Print Name

By: _____
County Manager

Date: _____

Witness

Print Name

For the use and reliance
of Seminole County only.

Within authority of Resolution
No. 93-R-71 adopted February 23,
1993.

Approved as to form and
legal sufficiency.

County Attorney
AS/lpk
1/12/06
eCivis Grant Subscriber Agt

Attachments:
Exhibit "A" - Grants Locator Sign Up Sheet
Exhibit "B" - Terms and Conditions of Use of Grants Locator

EXHIBIT A



GRANTS LOCATOR SIGN-UP SHEET

<u>Name of Organization</u>
<u>Address</u>

PRIMARY CONTACT INFORMATION:

NAME AND TITLE/POSITION

PHONE

E-MAIL

ORGANIZATIONS' WEBSITE ADDRESS

TOTAL NUMBER OF LOGINS REQUESTED _____

	NAME	TITLE/POSITION	E-MAIL ADDRESS	PHONE
1				
2				
3				
4				
5				

USE ADDITIONAL PAGES OR ATTACH A SEPARATE LIST IF NEEDED

EXHIBIT "B"

TERMS AND CONDITIONS

1. **General.** "You" means the single end-user organization executing this Agreement.

"Access Holder" means each individual that is an employee of your organization that uses *Grants Locator*. If the Community Based Organization and/or Library option is purchased, then an "Access Holder" also includes an approved employee of the selected group.

"*Grants Locator*" means the most current version of the online grants database libraries. eCivis reserves the right to discontinue *Grants Locator* at any time by giving written notice to you.

2. **License.** eCivis grants you, subject to this Agreement, a nonexclusive, nontransferable right and license.
1. To permit each allowed Access Holder to access *Grants Locator* through the Internet.
 2. To create printouts, download and store in electronic form, and re-purpose *Grants Locator* for internal use in connection with your normal business activities.

You may not engage in such activity if it is for commercial sale, redistribution, broadcast or transfer of such materials. You agree not to rent, lease, sublicense, distribute, or transfer any information to entities or people outside your organization. You agree to take all reasonable steps to protect *Grants Locator* from unauthorized access, copying, or use.

If people or entities outside your organization use your usernames to access *Grants Locator*, eCivis reserves the right to terminate this contract.

3. **Passwords.** You agree to assume sole responsibility for the security of your passwords.

4. **Help Desk.** eCivis maintains a help desk from 9 AM to 5 PM Pacific Time capable of providing technical assistance for *Grants Locator*. eCivis does not hold itself out as a professional expert and advisor regarding your computer or information needs.

5. **Your Responsibilities.** You are responsible for determining whether the *Grants Locator* will achieve the results you desire; You are responsible for adopting reasonable measures to limit your exposure with respect to potential losses and damages arising from use, nonuse, interruption, delay, errors, or omissions in *Grants Locator*. You agree to indemnify and hold eCivis, its managers, members, officers, employees, harmless from and against any loss, claims, demands, expenses, or liability of whatever nature or kind of you or any third parties arising out of your use of *Grants Locator*.

6. **Term.** The initial term of this Agreement shall commence on the date set forth above and end on the Termination Date.

7. **Fees.** eCivis will charge, and you agree to pay, the Fees. Full payment shall be made to eCivis within thirty (30) days after the original date of the invoice. eCivis will charge you interest at the rate of 1.5 % per month if payment is not received within the 30 days. Cancellation of any subscription will not result in any refund or credit of fees already paid and any additional payments remain due according to pre-determined terms. Subscription fees are charged up-front and no refunds or credits will be given upon cancellation. Additional fees may apply if you decide to re-subscribe at a later date.

8. **Changes.** eCivis reserves the right to change its fees and any other terms and conditions, at any time, effective upon publication. These changes will NOT affect any existing contract Term.

9. **Proprietary Protection.** eCivis is the sole owner of *Grants Locator* and any associated intellectual property rights. eCivis claims U.S. and foreign copyright ownership with respect to *Grants Locator*. You agree not to remove any copyright notices from printouts of *Grants Locator*.

10. Indemnification. If a third party claims that *Grants Locator* or your use of *Grants Locator* pursuant to this Agreement infringes any U.S. patent, copyright, or trade secret, eCivis will defend you and all Access Holders against such claim at eCivis' expense and pay all damages that a court finally awards, provided that you promptly notify eCivis in writing of the claim, and allow eCivis to control, and cooperate with eCivis in, the defense or any related settlement negotiations. If such a claim is made or appears possible, eCivis may, at its option, secure for you the right to continue to use the Product, modify or replace the Product with equivalent information so they are noninfringing, or, if neither of the foregoing options is available in eCivis' sole judgment, terminate this Agreement by paying you a credit equal to the portion of previously paid fees and charges allocable to the remaining term of this Agreement. THIS PARAGRAPH STATES eCIVIS' ENTIRE OBLIGATION WITH RESPECT TO ANY CLAIM OF INFRINGEMENT.

11. Limitations. eCivis shall employ due care and attention in obtaining and maintaining *Grants Locator*. However, you acknowledge that any collection and compilation of data entails the likelihood of some human and machine errors, omissions, delays, interruptions, and losses, including inadvertent loss of data or damage to media, which may give rise to loss or damage. Accordingly, you agree that the *Grants Locator* is provided "as is"; eCivis makes no representation or warranty with respect to their accuracy, completeness, and eCivis specifically disclaims any other warranty, express, implied, or statutory, including, any warranty of merchantability or fitness for a particular purpose. eCivis shall not be liable because of any such errors, omissions, delays, or losses, including data losses and corruption, unless caused by eCivis' gross negligence or willful misconduct. You further agree that in no event will the total aggregate liability of eCivis for any claims, losses, or damages arising under this agreement and services performed hereunder, whether in contract or tort, including negligence, exceed the total amount paid by you to eCivis during the preceding twelve-month period, even if eCivis has been advised of the possibility of such potential claim, loss, or damage.

You acknowledge that eCivis is not a consulting firm or a grant-writing firm. You agree always to read the full original grant notice provided. You acknowledge that eCivis does not warrant that use of the *Grants Locator* will result in any grant acquisition. You acknowledge that *Grants Locator* may not include all potential data. Specifically, eCivis makes no warranty that *Grants Locator* has all grants that the federal or a state government may have available.

12. Default. Should you fail to pay Fees due hereunder or fail to carry out any other obligation under this Agreement or any other agreement with eCivis, eCivis may, at its option, in addition to other available remedies, terminate this Agreement provided that it first gives you fifteen (15) days' prior notice to permit you to cure your default. eCivis reserves the right, with or without notice, to suspend access to or use of any Product in the event of any delinquency or default. eCivis may elect, in eCivis' sole discretion, after delinquency, to terminate all personal information and settings associated with an Access Holder. Such information and settings will be unrecoverable after such termination.

13. Force Majeure. eCivis shall not be liable or be deemed to be in default for any delay or failure in performance or interruption resulting directly or indirectly from any cause or circumstance beyond the reasonable control of eCivis; equipment, or telecommunications failure; labor dispute; or failure of any third party to perform any agreement with eCivis that adversely affects eCivis' ability to perform its obligations hereunder.

14. Governing Law. Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California as it applies to a contract made and performed in such state.

***** End of Terms and Conditions *****