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State of New Hampshire  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
OFFICE OF THE COMMISSIONER  
25 Capitol Street – Room 120  
Concord, New Hampshire 03301

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CHARLES M. ARLINGHAUS  
Commissioner  
(603)-271-3201

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Assistant Commissioner  
(603)-271-3204

May 30, 2018

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the Department of Administrative Services to enter into a **sole source** contract with LexisNexis VitalChek Network Inc. of Brentwood, TN (VC#220062), for fully supported payment processing services. This contract shall be effective upon Governor and Executive Council approval and extend through June 30, 2021. The price limitation established for this contract is \$100,000.00.

There shall be no cost to the State associated with the use of these services for agencies that choose to pass the convenience fee on to the customer. For agencies that choose to absorb the fees funds shall be provided through individual agency expenditures, none of which shall be permitted unless there are sufficient appropriated funds to cover the requested service.

**EXPLANATION**

The reason for this **sole source** request is the LexisNexis I-frame is integrated into the NH E-file which is provided by First Data Government Solutions; the Department of Revenue Administration (DRA) would incur a large cost to integrate a new solution into the Tax Information Management System (TIMS) which is going away over the next 3 years, being replaced by the Revenue Information Management System (RIMS). This contract provides fully supported payment processing services allowing State Agencies to accept payment from customers through various convenience/service fee models (via website, self-service kiosks, interactive over the phone (IVR), etc.). These services are currently utilized by the DRA, under Contract 8001781 approved by Governor and Executive Council on November 20, 2013, to collect the proper amount of taxes due by incurring the least cost to the taxpayers. Both of the DRA's web based credit card payment solutions provided via LexisNexis VitalChek Network Inc. delivers banking and reporting services through to the DRA's TIMS backend in compliance with the Payment Card Industry Data Security Standard (PCI DSS). The DRA was awarded a capital appropriation to overhaul and modernize TIMS; this new system will be called RIMS. This capital project will potentially affect the systems currently using the Fully Supported Payment Processing Solution. A change to the web based credit card payment

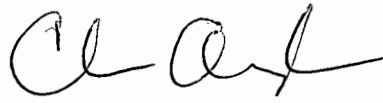
His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
May 30, 2018  
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solutions at this point in time will add an additional burden of cost as well as work effort to a system that will be obsolete when the RIMS is rolled out over the next three to four years.

Additionally, the Department of Environmental Services and Department of Administrative Services – Food Surplus are looking to implement fully supported payment processing solutions in order for customers to pay for services provided by each agency.

Based on the foregoing, I am respectfully recommending approval of the contract with LexisNexis VitalCheck Network Inc.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C. Arlinghaus', written in a cursive style.

Charles M. Arlinghaus  
Commissioner

Subject: Fully Supported Payment Processing Solution

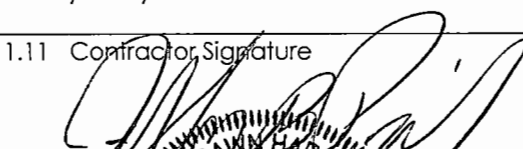
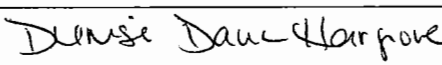


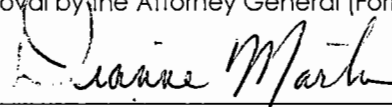
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

The State of New Hampshire and the Contractor hereby mutually agree as follows:

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name Department of Administrative Services		1.2 State Agency Address 25 Capitol St. Concord, NH 03301	
1.3 Contractor Name LexisNexis VitalChek Network Inc		1.4 Contractor Address 6 Cadillac Drive Brentwood, TN 37027	
1.5 Contractor Phone Number 615-372-6850	1.6 Account Number Various	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$100,000.00
1.9 Contracting Officer for State Agency Jeffery Haley		1.10 State Agency Telephone Number 603-271-2202	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory JEFFREY B. PIEFKE VICE PRESIDENT AND GENERAL MANAGER	
1.13 Acknowledgement: State of <u>TENNESSEE</u> , County of <u>WILLIAMSON</u> On <u>5/11/18</u> before me the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proved to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace : 		[Seal] 	
1.13.2 Name and Title of Notary or Justice of the Peace		<u>Denise Dawn Harbrove, Notary</u>	
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Charles M. Arlinghaus, Commissioner	
Date: <u>6/6/18</u>			
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: <u>6/7/18</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

**2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State" or "State of NH"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**  
3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").  
3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**  
Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

**5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**  
5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.  
5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.  
5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**  
6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.  
6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.  
6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**  
7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.  
7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

#### **8. EVENT OF DEFAULT/REMEDIES.**

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 set off against any other obligations the State may owe to the Contractor any other damages the State suffers by reason of any Event of Default; and/or

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

#### **9. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.**

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

**10. TERMINATION.** In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

**11. CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

**12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.** The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice and consent of the State. None of the Services shall be subcontracted by the Contractor without the prior written notice and consent of the State.

**13. INDEMNIFICATION.** The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

#### **14. INSURANCE.**

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

**15. WORKERS' COMPENSATION.**

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

**16. WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

**17. NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the

parties at the addresses given in blocks 1.2 and 1.4, herein.

**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

**19. CONSTRUCTION OF AGREEMENT AND TERMS.** This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

**20. THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

**21. HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**22. SPECIAL PROVISIONS.** Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

**23. SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

**24. ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

**EXHIBIT A  
SCOPE OF SERVICES**

**1. INTRODUCTION**

LexisNexis VitalChek Network Inc. (hereinafter referred to as the "Contractor") hereby agrees to provide the State of New Hampshire (hereinafter referred to as the "State"), Department of Administrative Services, with Fully Supported Payment Processing Services as described herein.

**2. CONTRACT DOCUMENTS**

This Contract consists of the following documents ("Contract Documents") in order of precedence:

- a. State of New Hampshire Terms and Conditions, General Provisions Form P-37
- b. EXHIBIT A      Scope of Services
- c. EXHIBIT B      Payment Terms
- d. EXHIBIT C      Special Provisions
- e. EXHIBIT D      LexisNexis Vitalchek Network Inc. Paper and Electronic Media Policies
- f. EXHIBIT E      Dep't of Revenue Administration Policy NO. 16-007

References herein to "Contract" shall have the same meaning as "Agreement."

**3. TERM OF CONTRACT**

This Contract shall commence July 1, 2018, or upon the approval of Governor and Executive Council, whichever is later, and shall terminate on June 30, 2021, a period of approximately three (3) years, unless extended for additional terms or early termination.

The Contract may be extended for an additional two (2) one-year terms thereafter under the same terms, conditions and pricing structure upon the mutual agreement between the Contractor and State, and the with the approval of the Governor and Executive Council.

**4. SCOPE OF WORK**

**4.1 DEFINITIONS**

**4.2 CARDHOLDER** – Any customer that uses a credit or debit card.

**4.3 CONTRACTOR** – LexisNexis VitalChek Network Inc.

**4.4 CUSTOMER** – Any member of the general public that uses the payment processing system.

**4.5 POINT OF SALE ("POS")** – Any virtual or physical location where a customer exchanges funds with the State.

**4.6 STATE** – State of New Hampshire employees, agencies, departments, commissions, and any other official entities.

## **5. FULLY SUPPORTED PAYMENT PROCESSING SOLUTION**

### **5.1 STATE OF NEW HAMPSHIRE**

Services shall provide a payment solution for citizens to pay the State for services, taxes, fees, etc. through credit card, debit card, ACH, or e-Checks through "pay by phone", internet, kiosk, point-of-sale systems, etc. Contractor shall add or remove any tax and/or fees as required by the State.

### **5.2 FUNCTIONAL REQUIREMENTS AND CAPABILITIES**

#### **5.2.1 Payment Acceptance**

Contractor shall accept Visa, MasterCard, American Express, Discover, Debit Cards, ACH, and e-Checks on behalf of the State.

#### **5.2.2 Convenience and/or Service Fee Model**

The Contractor shall utilize a convenience and/or service fee model where the convenience and/or service fee is the responsibility of the cardholder and there is no cost to the State. Contractor must allow the State to absorb convenience and/or service fees on an account-wide basis. Contractor must follow the convenience fee rules established by the card networks. The State, where appropriate, will work with the Contractor to ensure compliance with such rules.

The State reserves the right to absorb convenience fees for e-Check and ACH processing or pass the fee on to the customers as appropriate for the State.

Customers must be clearly notified of the convenience and/or service fee amount that will be charged to use this service prior to payment acceptance and completion. All POS must clearly state a convenience and/or service fee will be assessed.

#### **5.2.3 Multiple Payment Applications**

Contractor must be able to host multiple payment applications where a customer can initiate a payment directly through the service or through the State. The State may decide to implement any, all, or none of the services.

#### **Examples of desired payment applications include but are not limited to:**

1. A "pay by phone" or interactive voice response ("IVR") payment solution.
2. A process for accepting payments by credit cards, debit cards, ACH, an eCheck over the internet via an externally hosted payment page. The payment page must be customizable to allow State elements including,



but not restricted to, State Seal and agency verbiage, to reassure cardholder that they have reached an approved State site. The Contractor's hosted page must be able to interface with an agency's website and/or web form to ensure the payment is applied as intended by the agency's customer.

3. POS solution that allows agency staff to process credit card payment on behalf of Customers.
4. A self-service kiosk that Customers can use to pay their payment at the agency location.

### **5.3 GENERAL REQUIREMENTS**

#### **5.3.1 Payment Card Industry Data Security Standards ("PCI DSS")**

Contractor must be level one certified according to PCI DSS and listed on Visa's global registry of service providers.

Contractor shall provide an Attestation of Compliance annually or upon request to the State.

#### **5.3.2 System**

- Contractor shall provide access twenty-four (24) hours a day, seven (7) days a week to the payment options and networks for both Customers and the State.

- Contractor shall provide access rate equal to or exceeding 99.999% availability annually except for schedule maintenance.

- Contractor shall provide written notice of any scheduled maintenance that would impact the use of the system by the Customers and/or State staff.

#### **5.3.3 Transaction Processing and Settlement**

Contractor shall process all transactions real time. Within twenty-four (24) hours of authorization, payments must be submitted for ACH processing, and must be electronically deposited via ACH in the gross amount (in their entirety) directly into the State's designated bank account within twenty-four (24) business hours of receipt.

Contractor shall provide for the authorization and settlement of transactions through the appropriate authorization and settlement networks and provide problem resolution to transaction and/or settlement discrepancies within forty-eight (48) business hours.

Contractor shall be the merchant of record for all transactions.

##### **5.3.3.1 Invoicing Requirements**

When an agency chooses to absorb the convenience fee the Contractor shall provide each agency with a monthly invoice for the processing charges incurred by that agency, either in electronic, hard copy, or both,

as directed. The invoice shall be in a simple format whereby, the agency shall be able to see all charges and shall be able to easily reconcile with their records. The Contractor shall not, under any circumstances, debit the State's depository bank account(s) or otherwise net fees from credit card revenue. All credit/debit brand cards shall be included on one (1) monthly invoice per agency. Each State of New Hampshire agency shall have its own individual customer account number. There shall be instances where sub-sections of an agency shall need their own individual customer account number. Separate invoices by credit/debit brand cards will not be accepted by the State

### **5.3.4 Reporting Capabilities**

#### **5.3.4.1 General and Ad Hoc Reports**

Contractor must provide daily, weekly, and/or monthly detail and summary reports through an online system, which will allow each State agency to reconcile their deposits and transactions. Each agency may have different reporting requirements, the reporting must allow for ad hoc reports that can be tailored to the agencies' needs. The reporting system must have the ability to export data into a .XLS or .CSV file format. Some of the standard reports that may be required, but are not limited to are:

- Batch Summary
- Batch Detail
- Deposit Summary
- Deposit Detail

#### **5.3.4.2 Monthly Summary Report**

Contractor shall provide an electronic monthly and year to date summary reports to the New Hampshire Department of Treasury and the Department of Administrative Services Merchant ("DASMCS") summarizing the activity for all State agencies by department name, with gross sales, gross transaction count, returns, net sales, net transactions count, and include all electronic payment types.

Contractor shall provide an electronic monthly summary report to any agency that requires such report. The summary report shall only contain the sales information for the specific agency who requests this report. The report shall include a summary of gross sales, gross transaction count, returns, net sales, and net transaction count for all electronic payment types.

All reports must be transmitted by a secure method. The reports will be due by the 10<sup>th</sup> business day of each month, for the previous month.

### **5.3.5 Contract Support**

#### **5.3.5.1 State**

Contractor shall provide contract support service for the State during the hours of 8:0 am-5:00pm Eastern Standard Time Monday through Friday.

Contract support services must include, but is not limited to, research, supplies, equipment request, installation and troubleshooting repair/replacement for malfunctioning equipment.

#### **5.3.5.2 Customers**

Contractor shall provide aid to consumers who need assistance with making payments, disputes and/or technical issues through this service 24/7 /365; bi-lingual (English/Spanish) support will be provided through a toll free telephone number. The customer service number must be clearly displayed at all POS.

#### **5.3.5.3 Updates of Payment Brand Requirements**

Contractor shall notify the designated State contact in writing of all updates in requirements mandated by the payment brands. Such notice shall be given as soon as possible, but no later than thirty (30) days from the time contractor has knowledge of changes.

#### **5.3.6 Training**

Contractor shall provide training to State personnel when an account is set up. This training should include, but not be limited to, overview of State's responsibilities, important procedures for processing, and use of the associated reporting system.

#### **5.3.7 Confidentiality**

##### **5.3.7.1 Confidential Tax Information**

The Contractor acknowledges that its performance of the Contract includes access to Confidential Information, including, but not limited to, any information obtained from the State's records, files, or returns, that is subject to state or federal laws/rules restricting the access, use, and disclosure of Confidential Information, including, but not limited to, RSA 21-J: 14 and Internal Revenue Code Sections 7213 and 7213A. The Contractor also acknowledges that its access to Confidential Information is subject to Exhibit E- Dep't of Revenue Administration Policy No. 16-007, "Contractor Disclosures of Taxpayer and Department Information," and Exhibit C- Special Provisions, which are incorporated herein by reference. The Contractor shall ensure that every employee or subcontractor with access to Confidential Information has read, understands, and has signed Dep't of Revenue Administration Policy No. 16-007, "Contractor Disclosures of Taxpayer and Department Information," and shall provide copies of the signed document upon request of the State.

The Contractor agrees to hold and maintain Confidential Information in strictest confidence for the sole and exclusive benefit of the State. The Contractor shall not use Confidential Information except for the purpose of performing its obligations under the Contract, and shall not disclose Confidential Information in any manner to any person without prior written approval of the State. The Contractor shall immediately notify the State upon request for any Confidential Information, regardless of whether disclosure is permitted or required by judicial decree or state or federal laws/rules.

The Contractor shall implement, maintain, and use safeguards to protect Confidential Information from any unauthorized use or disclosure in at least the same manner and to the same degree the Contractor protects its own confidential information. The Contractor shall carefully restrict access to Confidential Information to the Contractor's Project Team, and shall advise those persons that they are prohibited from using Confidential Information except for the purpose of performing the Contractor's obligations under the Contract, and from disclosing Confidential Information. It is unlawful for any officer or employee of the Contractor willfully to disclose Confidential Information to any person. Any violation of RSA 21-J:14 or Internal Revenue Code Sections 7213 or 7213A is punishable upon conviction by a fine or imprisonment or both.

In the event of any unauthorized use or disclosure of Confidential Information, the Contractor shall immediately notify the State both orally and in writing. The State shall investigate whether an offense has been committed in accordance with Exhibit \_\_- Dep't of Revenue Administration Policy No. 16-007, "Contractor Disclosures of Taxpayer and Department Information," which is incorporated herein by reference. Any such offense is an Event of Default. The Contractor's failure to immediately notify the State both orally and in writing of any unauthorized use or disclosure of Confidential Information is also an Event of Default, regardless of whether the State determines that an offense has been committed. Upon the occurrence of an Event of Default, the State may immediately treat the Contract as breached and pursue any remedies at law or in equity or both.

If any provision of this Section conflicts with any provision of the Agreement, the provision of this Section shall govern.

### **5.3.8 General Requirements**

The Contractor shall not commence work until a conference is held with Department of Administrative Services – Merchant Card Services (DAS MCS), agencies will not contact the Contractor directly. All agencies must complete the appropriate paperwork and provide to DAS MCS and once approved by DAS MCS the agency will proceed.

The State shall require correction of defective work or damages to any part of a building or its appurtenances when caused by the Contractor's employees, equipment or supplies. The Contractor shall replace in satisfactory condition all defective work and damages rendered thereby or any other damages incurred. Upon failure of the Contractor to proceed promptly with the necessary corrections, the State may withhold any amount necessary to correct all defective work or damages from payments to the Contractor.

The work staff shall consist of qualified persons completely familiar with the products and equipment they shall use. The Contracting Officer may require the Contractor to dismiss from the work such employees as deems incompetent, careless, insubordinate, or otherwise objectionable, or whose continued employment on the work is deemed to be contrary to the public interest or inconsistent with the best interest of security and the State.

The Contractor or their personnel shall not represent themselves as employees or agents of the State.

While on State property, employees shall be subject to the control of the State, but under no circumstances shall such persons be deemed to be employees of the State.

All personnel shall observe all regulations or special restrictions in effect at the State Agency.

The Contractor's personnel shall be allowed only in areas where services are being performed. The use of State telephones is prohibited.

### **6. TERMINATION**

The State of New Hampshire has the right to terminate the contract at any time by giving the Contractor thirty (30) days advance written notice.

### **7. OBLIGATIONS AND LIABILITY OF THE CONTRACTOR**

The Contractor shall provide all services strictly pursuant to, and in conformity with, the specifications as described herein, and under the terms of this Contract.

The Contractor shall agree to hold the State of NH harmless from liability arising out of injuries or damage caused solely by the Contractor while performing this work. The Contractor shall agree that any damage caused by the Contractor to building(s), materials, equipment or

other property during the performance of the service shall be repaired at its own expense, to the State's satisfaction.

**8. DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTIONS**

The Contractor certifies, by signature of this Contract, 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.

**9. INSURANCE**

Certificate of insurance amounts must be met and maintained throughout the term of the contract and any extensions as per the P-37, section 14 and cannot be cancelled or modified until the State receives a 10 day prior written notice.

**EXHIBIT B  
PAYMENT TERMS**

**1. CONTRACT PRICE**

The Contractor hereby agrees to provide fully supported payment processing services in complete compliance with the terms and conditions specified in Exhibit A from the effective date of award through the expiration date set as \$100,000.00. There shall be no cost to the State associated with the provision of these services.

**2. PRICING STRUCTURE**

THERE SHALL BE NO COST TO THE STATE FOR AGENCIES THAT CHOOSE TO PASS THE CONVENIENCE FEE ON TO THE CARDHOLDER FOR THE UTILIZATION OF THESE SERVICES; THE FEES SPECIFIED BELOW SHALL BE THE RESPONSIBILITY OF THE CARDHOLDER.

FOR STATE AGENCIES THAT CHOOSE TO ABSORB THE CONVENIENCE FEE THE FEES SPECIFIED BELOW SHALL BE THE RESPONSIBILITY OF THE UTILIZING AGENCY.

If the agency opts to absorb the fee, the following process will occur. State agency revenue will be recorded in full and no convenience fees will be deducted from the deposit. Contractor shall invoice the agency directly on a monthly basis for all convenience fees incurred. Contractor shall not be permitted to deposit revenue less the convenience fee in any circumstances. The revenue and convenience fees must be separate transactions and not a net amount.

**Convenience/Service**

Credit Card 2.49%

Debit Card 2.49%

eCheck \$1.00 non-guaranteed \*

ACH \$1.00 non-guaranteed \*

\*"Non-guaranteed" means State is liable for reimbursement to the appropriate entity of amounts including the face amount of the transaction related to checks for ACH transactions unpaid for any reason.

**EXHIBIT C  
SPECIAL PROVISIONS**

**1. CONFLICT OF INTEREST**

The Contractor represents and warrants that the Contractor has no business, professional, personal, or other interest that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, the Contractor shall immediately inform the State in writing of such conflict. Notwithstanding any provision of this Agreement to the contrary, if, in the reasonable judgment of the State, such conflict poses a material conflict to or with the performance of the Contractor's obligations under this Agreement, the State may terminate this Agreement immediately after giving the Contractor notice of termination. In the event of such a termination, Contractor shall be entitled only to payment for work actually performed up to the date of the notice of termination.

**2. USE OF STATE'S INFORMATION, CONFIDENTIALITY**

In performing its obligations under this Agreement, the Contractor may be provided with State Confidential Information by the State. "State Confidential Information" shall include, but not be limited to, information deemed confidential and privileged under RSA 21-J:14 and/or information exempted from public disclosure under RSA Chapter 91-A (see e.g. RSA Chapter 91-A:5 Exemptions). The Contractor shall comply with Dep't of Revenue Administration's Policy No. 16-007, "Contractor Disclosures of Taxpayer and Department Information", attached as Exhibit \_E\_ hereto, and the requirements of all applicable laws concerning confidentiality and non-disclosure of information. The Contractor shall not use the State Confidential Information developed or obtained during the performance of, or acquired, or developed by reason of this Agreement, except as directly connected to and necessary for the Contractor's performance under this Agreement.

**3. LIMITATION OF LIABILITY**

Subject to applicable laws and regulations, in no event shall the a party be liable for any consequential, special, indirect, incidental, punitive, or exemplary damages. If Subject to applicable laws and regulations, the State's liability to the Contractor shall not exceed the Price Limitation set forth in Form P-37, block 1.8, except to the extent any loss liability, damage, cost, or expense are determined to have resulted from a party's gross negligence or willful misconduct.

**4. TERMINATION PROCEDURE**

- 4.1** After receipt of a notice of termination, and except as otherwise directed by the State, the Contractor shall:
- a.** Stop work under this Agreement on the date, and to the extent specified, in the notice;
  - b.** Take such action as the State directs, or as necessary to preserve and protect the property related to this Agreement which is in the possession of the Contractor and in which the State has an interest;
  - c.** Transfer title to the State and deliver in the manner, at the times, and to the extent directed by the State, any property which is required to be furnished to the State and which has been accepted or requested by the State;



- d. Provide written Certification to the State that the Contractor has surrendered to the State all said property; and
- e. Assist in Transition Services, as reasonably requested by the State at no additional cost; except, that, during the transition period, the Services shall be supplied at the fees set forth herein and the terms and conditions herein shall apply.

**5. NOTICE**

Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in Form P-37, blocks 1.2 and 1.4.

**6. DISPUTE RESOLUTION**

Prior to the filing of any formal proceedings with respect to a dispute (other than an action seeking injunctive relief with respect to intellectual property rights or confidential information), the party believing itself aggrieved (the "Invoking Party") shall call for progressive management involvement in the dispute negotiation by written notice to the other party. Such notice shall be without prejudice to the Invoking Party's right to any other remedy permitted under this Agreement.

The parties shall use reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, between negotiators for the parties at the following successive management levels, each of which shall have a period of allotted time as specified below in which to attempt to resolve the dispute. Disputes should be escalated per Table 4.

**Table 4:** Dispute Resolution Responsibility and Schedule Table

LEVEL	LexisNexis	STATE	CUMULATIVE ALLOTTED TIME
Primary	LN -TBD	Robin Parkhurst - Administrator	5 Business Days
First	LN-TBD	Gary Lunetta - Director	10 Business Days
Second	LN-TBD	Catherine Keane Deputy Commissioner	15 Business Days

**7. SECURITY INCIDENT OR DATA BREACH NOTIFICATION**

The Contractor shall comply with the requirements of Dep't of Revenue Administration Policy No. 16-007 "Contractor Disclosures of Taxpayer and Department Information", attached as Exhibit E hereto, and in addition shall inform the State of any security incident or data breach in accordance with applicable law NH RSA 359-C. Notwithstanding anything herein to the contrary, this section 8 shall not be deemed to modify the Contractor's responsibilities pursuant to Section 2.3.7.1 and the Dep't of Revenue Administration Policy No. 16-007.

- a. Incident Response: the Contractor may need to, as required by applicable law or regulation, communicate with outside parties regarding a security incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in this Contract.

Discussing with the State should be handled on an urgent as-needed basis, as part of the Contractor communication and mitigation processes and policies, or as mutually agreed upon by the parties, or as required by applicable law or regulation.

b. Security Incident Reporting Requirements: the Contractor shall report a security incident to the appropriate State identified contact immediately as defined in the SLA.

c. Breach Reporting Requirements: If the Contractor has actual knowledge of a confirmed data breach that affects the security of any State content that is subject to applicable data breach notification law, the Contractor shall (1) promptly notify the appropriate State identified contact within 24 hours or sooner, unless shorter time is required by applicable law, and (2) take commercially reasonable measures to address the data breach in a timely manner.

## 8. BREACH RESPONSIBILITIES

This section only applies when a data breach occurs with respect to personal data within the possession or control of the Contractor.

a. The Contractor, unless stipulated otherwise, shall immediately notify the appropriate State identified contact by telephone in accordance with the agreed upon security plan or security procedures if it reasonably believes there has been a security incident.

b. The Contractor, unless stipulated otherwise, shall promptly notify the appropriate State identified contact within 24 hours or sooner by telephone, unless shorter time is required by applicable law, if it confirms that there is, or reasonably believes that there has been a data breach. The Contractor shall (1) cooperate with the State as reasonably requested by the State to investigate and resolve the data breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document responsive actions taken related to the data breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.

c. Unless otherwise stipulated, if a data breach is a direct result of the Contractor's breach of its contract obligation to encrypt personal data or otherwise prevent its release, the Contractor shall bear the costs associated with:

- (1) the investigation and resolution of the data breach;
- (2) notifications to individuals, regulators or others required by applicable law;
- (3) if applicable, a credit monitoring service required by State (or federal) law;
- (4) a website or a toll-free number and call center for affected individuals required by State law — all not to exceed the average per record per person cost calculated for data breaches in the United States (currently \$201 per record/person) in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute<sup>17</sup> at the time of the data breach; and
- (5) complete all corrective actions as reasonably determined by the Contractor based on root cause; all [(1) through (5)] subject to this Contract's limitation of liability.

## **9. CHANGE OF OWNERSHIP**

In the event that the Contractor should change ownership for any reason whatsoever, the State shall have the option of continuing under this Agreement with the Contractor, its successors or assigns for the full remaining term of this Agreement; continuing under this Agreement with the Contractor, its successors or assigns for such period of time as determined necessary by the State; or immediately terminate this Agreement without liability to the Contractor, its successors or assigns.

## **10. SURVIVAL**

The terms, conditions and warranties contained in this Agreement that by their context are intended to survive the completion of the performance, cancellation or termination of this Agreement shall so survive.

## **11. MISCELLANEOUS**

Each party warrants that it will abide by: [i] the applicable rules, regulations, operating procedures, guidelines and requirements as may be promulgated or amended from time to time by Contractor's payment processor(s), VISA, USA, Inc., MasterCard International, Inc., Discover, any other applicable card association, and, to the extent such party stores or retains any card information, the Payment Card Industry Data Security Standard, the Visa Cardholder Information Security Program, and the MasterCard Site Data Protection program (collectively, the "Rules"), and [ii] all applicable federal, state, and local laws, ordinances, codes and regulations in the performance of its obligations under this Agreement (collectively, the "Laws"). State further understands and agrees it might be deemed a "merchant" or "sub merchant" under the Rules, and that Contractor's payment processor might require State to acknowledge its agreement to abide by such rules, regulations, operating procedures, guidelines and requirements.

In conformity with industry security requirements, and in order to maintain the highest level of cardholder data security, Contractor has instituted, among other policies, Paper and Electronic Media Policies, which are designed to meet or exceed industry security standards (the "Contractor Policies"). A copy of the Contractor Policies has been provided to the State, and is attached hereto as Exhibit D, and the State agrees to comply with such policies as amended from time to time as well as with appropriate industry accepted security practices for handling non-public personal information. State acknowledges and agrees that [i] Cardholder data may only be used for assisting in completing a card transaction or as required by applicable law; [ii] In the event of a breach or intrusion of or otherwise unauthorized access to cardholder data stored within the State's system, the State will immediately notify Contractor, and provide Contractor and/or its processor or the relevant card company access to State's facilities and all pertinent records to conduct a review of State's compliance with the security requirements, as well as fully cooperate with any review of facilities and records provided for in this paragraph.

It is agreed that under this Agreement Contractor does not transfer, and state does not obtain, any patent rights, copyright interest or other right, claim or interest in the computer programs, systems, forms formats, schedules, manuals or other proprietary items utilized by the Services or provided by Contractor (b) the State is not a third-party beneficiary under the agreements between the Contractor and the card network(s) related to the Services.

A party herein will not be liable to the other party or its customers for any delay or failure in its performance of any of the acts required by this Agreement if and to the extent that such delay or failure arises beyond the reasonable control of such party, including, without limitation, acts of God or public enemies, labor disputes, equipment malfunctions, computer downtime, material or

component shortages, supplier failures, embargoes, earthquakes, rationing, acts of local , state, or national governments or public agencies, utility or communication failures or delays, fire, flood, epidemics, riots and strikes.

State will work with Contractor in order to maintain appropriate business continuity procedures and systems to insure security of cardholder data in the event of a disruption, disaster or failure of any data systems.

**12. Delete 8.2.3 from Form P-37 and replace with the following:**

8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default to the extent where a final determination of liability on the part of Contractor is established by a court of law or where settlement has been agreed to by the Contractor ; and/or

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

**13. Delete 9.2 from Form P-37**

**14. Add the following to Form P-37:**

9.3 Confidentiality and non-disclosure of Department of Revenue Confidential Information shall be governed by Section 2.3.7 and Exhibit E, Dep't of Revenue Administration Policy No. 16-007, "Contractor Disclosures of Taxpayer and Department Information".

**15. Delete 13 Indemnification from Form P-37 and replace with the following:**

**13. INDEMNIFICATION.** The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the claim of sovereign immunity of the State,. This covenant in paragraph 13 shall survive the termination of this Agreement.

**EXHIBIT D**  
**LEXISNEXIS VITALCHEK NETWORK INC**  
**Paper and Electronic Media Policies**

**Policy Applicability**

All employees' handling hardcopy or electronic media must follow this policy. Departures from this policy will be permitted only if approved in advance and in writing by VitalChek.

**Storage**

**Hardcopy Media**

Hard copy material containing sensitive or confidential information (i.e.: paper receipts, paper reports, faxes, etc.) is subject to the following storage guidelines:

- At no time are printed reports containing sensitive information to be removed from any VitalChek or Agency secure office environment.
- At no time is printed material containing sensitive information to be removed from any VitalChek data center or computer room without prior authorization from the General Manager.
- Printed reports containing consumer sensitive data are to be physically retained, stored or archived only within secure VitalChek or Agency office environments, and only for the minimum time deemed necessary for their use.
- All hardcopy material containing confidential or sensitive information should be clearly labeled as such.
- All sensitive hardcopy media must be stored securely in a safe or locking file cabinet.
- Sensitive hardcopy material is never to be stored in employee desks or open workspaces.

**Electronic Media**

Electronic media containing sensitive or confidential information (i.e.: CD, DVD, floppy disk, hard disk, tape, etc.) is subject to the following storage guidelines:

- Confidential and sensitive information should never be copied onto removable media without authorization from VitalChek's Information Technology Department.
- At no time is electronic media containing sensitive information to be removed from any VitalChek or Agency secure office environment, with the exception of computer system backups
- At no time is electronic media containing sensitive information to be removed from any VitalChek data center or computer room without prior authorization from the Information Technology Department

- Electronic media containing consumer sensitive data are to be physically retained, stored or archived only within secure VitalChek or Agency office environments, and only for the minimum time deemed necessary for their use.
- All electronic media containing confidential or sensitive information should be clearly labeled as such
- All removable, sensitive electronic media must be stored securely in a safe or approved locking file cabinet.
- All hardware (i.e. servers, workstations, modems, etc.) on which sensitive electronic media is stored shall be placed a secure area and not be removed from a secure agency environment.

**EXHIBIT E**

**[attach a copy of --Dep't of Revenue Administration Policy POLICY NO. 16-007 "Contractor Disclosures of Taxpayer and Department Information"]**

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# Department of Revenue Administration



## POLICY and PROCEDURE

No. 16-007 ( Amended) Issue Date: 7/7/2017

Distribution: All Department Employees

Subject: Contractor Disclosures of Taxpayer and Department Information

NOTE: This Policy and Procedure is intended for the use of the Department of Revenue Administration and its contactors and vendors and is not intended to establish any higher standard of care in any civil or criminal court proceeding or action than is otherwise provided by applicable state or federal law.

### I. Purpose

The purpose of this Policy and Procedure is to set forth the policy for required contractor contract terms relevant to the disclosure of taxpayer and Department of Revenue Administration (DRA) information, the procedure for a contractor to report disclosures of taxpayer or DRA information, and the investigatory procedure when a contractor disclosure incident is reported.

This Policy on Contractor Disclosure of Taxpayer and DRA Information ("Policy") shall be read in a manner that is consistent with state and federal law, including RSA 21-J:14 and Internal Revenue Code Sections 7213 and 7213A, as well as state administrative rules governing both the confidentiality of taxpayer information and procurement, and all relevant contracts including contracts for the exchange of information with the federal government and other states. In instances where this policy conflicts with the aforementioned authorities, those authorities shall govern.

For purposes of this Policy, the term "contractor" shall mean any individual or organization, including employees and subcontractors, that the DRA contracts with for the provision of goods or services that does or may have access to any DRA information, including taxpayer records, files, returns, or return information. The term shall include any employee of a temporary employment or staffing agency assigned to work at the DRA.

### II. Policy

Any DRA information, including taxpayer records, files, returns, or return information contained in the records of the DRA or the contractor, or developed by the contractor through its activities on behalf of the DRA, is confidential and privileged pursuant to RSA 21-J:14, even in instances where



identical information is public information in another individual's or organization's records. The use of such confidential information for purposes other than for tax administration on behalf of the DRA is a violation of New Hampshire RSA 21-J:14 and, when federal tax information is involved, United States Internal Revenue Code (IRC) Sections 7213 and 7213A. A willful violation of RSA 21-J:14 constitutes a class A misdemeanor, punishable in accordance with RSA 626:2. A willful violation of IRC Sections 7213 and 7214A may constitute up to a felony.

An impermissible disclosure includes, but is not limited to: (1) disclosing taxpayer information or DRA records or files to an individual or entity not authorized to receive it under RSA 21-J:14; (2) accessing taxpayer information or DRA records or files that exceeds what is necessary for the contractor to perform the services the contractor has been contracted to provide the DRA (each contractor employee shall access only that information that is necessary to perform that employee's individual job duties); (3) comingling taxpayer information or DRA records or files with any other files or records of the contractor; and (4) misusing, abusing, losing, or damaging the DRA's records or information, including the failure to safeguard records, files, returns, or return information contained in the records of the contractor, or developed by the contractor.

The severity of an impermissible disclosure will depend upon the extent to which the disclosure may compromise the DRA's proprietary information, the extent and type of information lost or destroyed, whether the impermissible disclosure was made for personal gain, the extent to which the loss of information impacts the DRA, the extent of the risk of identity theft, the failure to encrypt or protect passwords, the failure to cooperate in the investigation, the failure to report any known or suspected impermissible disclosure, and the number of previous impermissible disclosures by the contractor.

It is the policy of the DRA that contracts include provisions addressing the contractor's obligations with respect to taxpayer and DRA information as outlined below. It is also the policy of the DRA that impermissible contractor disclosures of taxpayer or DRA information are to be reported and investigated in accordance with the procedures below.

### III. Procedures

#### A. REQUIRED CONTRACT TERMS

Every contract entered into by the DRA shall contain contract terms substantially similar to those contained in Confidential Information Contract Provisions (Exhibit A).

#### **B. REPORTING DISCLOSURE INCIDENTS**

1. When a contractor knows or suspects that an impermissible disclosure has been made by the contractor or one of the contractor's employees or subcontractors, the following procedure shall govern:
  - a. The contractor shall immediately report the incident to the DRA.
  - b. The DRA employee that receives the report shall immediately notify the Assistant Commissioner of the incident and all facts and documentary evidence provided by the contractor.
2. When a DRA employee receives notification or other information from anyone other than the contractor indicating that an impermissible disclosure has or may have been made by the contractor or one of the contractor's employees or subcontractors, the following procedure shall govern:
  - a. The DRA employee that receives the notification or other information indicating that an impermissible disclosure has or may have occurred shall immediately notify the Assistant Commissioner of the incident and all facts and documentary evidence provided by the person reporting the incident.
  - b. The Assistant Commissioner shall immediately notify the contractor that a potential disclosure incident has been reported.

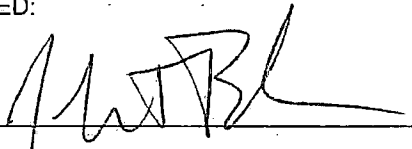
#### **C. INVESTIGATING REPORTED INCIDENTS**

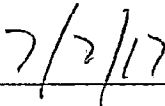
When the Assistant Commissioner's Office receives a report of an incident, the following procedure shall govern:

1. The Assistant Commissioner shall review the information and documents provided by the reporting party and may request that the Internal Auditor (hereinafter, "Internal Auditor" shall include a designee selected at the discretion of the Assistant Commissioner) conduct an investigation of the incident.
2. If requested, the Internal Auditor shall interview the contractor, any employee or subcontractor of the contractor, and any other individual believed to have information relating to the incident. The Internal Auditor shall request:
  - i. All documentation concerning the incident;
  - ii. The names of all employees or other individuals believed to have knowledge of the incident; and

- iii. Any further information that the Internal Auditor deems necessary to evaluate the incident.
- 3. The Internal Auditor shall conduct any further research and interviews necessary to investigate the incident.
- 4. At the close of the investigation, the Internal Auditor shall complete and sign a Contractor Disclosure Investigation Report ("CDIR") (Exhibit B) and submit the completed CDIR to the Assistant Commissioner's office.
- 5. Upon receipt of the completed and signed CDIR from the Internal Auditor, the Assistant Commissioner shall review the CDIR and determine whether the CDIR contains enough information to determine whether the incident was an impermissible disclosure. If the CDIR requires further information, the Assistant Commissioner shall refer it back to the Internal Auditor with written instructions on the additional information required. The Internal Auditor shall file the requested additional information with the Assistant Commissioner upon obtaining the requested information.
- 6. Once the CDIR is complete, the Assistant Commissioner shall perform an analysis to determine whether an impermissible disclosure has occurred. If an impermissible disclosure has not occurred, the Assistant Commissioner shall so notify the contractor. If an impermissible disclosure has occurred, that finding shall be issued and referred to Revenue Counsel for consultation on the appropriate response.

APPROVED:

  
\_\_\_\_\_  
John T. Beardmore, Commissioner

  
\_\_\_\_\_  
Date

Contractor Initials   
Date 5-31-18



STATE OF NEW HAMPSHIRE  
DEPARTMENT OF REVENUE ADMINISTRATION

CONFIDENTIAL INFORMATION CONTRACT PROVISIONS

The Contractor acknowledges that its performance of the Contract includes access to Confidential Information, including, but not limited to, any information obtained from the State's records, files, or returns, that is subject to state or federal laws/rules restricting the access, use, and disclosure of Confidential Information, including, but not limited to, RSA 21-J:14 and Internal Revenue Code Sections 7213 and 7213A. The Contractor also acknowledges that its access to Confidential Information is subject to Exhibit X – State Policy No. 16-007, "Contractor Disclosure of Taxpayer and Department Information," and Exhibit C – Special Provisions, which are incorporated herein by reference. The Contractor shall ensure that every employee or subcontractor with access to Confidential Information has read, understands, and has signed State Policy No. 16-007, "Contractor Disclosure of Taxpayer and Department Information," and shall provide copies of the signed document upon request of the State.

The Contractor agrees to hold and maintain Confidential Information in strictest confidence for the sole and exclusive benefit of the State. The Contractor shall not use Confidential Information except for the purpose of performing its obligations under the Contract, and shall not disclose Confidential Information in any manner to any person without prior written approval of the State. The Contractor shall immediately notify the State upon request for any Confidential Information, regardless of whether disclosure is permitted or required by judicial decree or state or federal laws/rules.

The Contractor shall implement, maintain, and use safeguards to protect Confidential Information from any unauthorized use or disclosure in at least the same manner and to the same degree the Contractor protects its own confidential information. The Contractor shall carefully restrict access to Confidential Information to the Contractor's Project Team, and shall advise those persons that they are prohibited from using Confidential Information except for the purpose of performing the Contractor's obligations under the Contract, and from disclosing Confidential Information. It is unlawful for any officer or employee of the Contractor willfully to disclose Confidential Information to any person. Any violation of RSA 21-J:14 or Internal Revenue Code Sections 7213 or 7213A is punishable upon conviction by a fine or imprisonment or both.

In the event of any unauthorized use or disclosure of Confidential Information, the Contractor shall immediately notify the State both orally and in writing. The State shall investigate whether an offense has been committed in accordance with Exhibit X – State Policy No. 16-007, "Contractor Disclosure of Taxpayer and Department Information," which is incorporated herein by reference. Any such offense is an Event of Default. The Contractor's failure to immediately notify the State both orally and in writing of any unauthorized use or disclosure of Confidential Information is also an Event of Default, regardless of whether the State determines that an

EXHIBIT A

offense has been committed. Upon the occurrence of an Event of Default, the State may immediately treat the Contract as breached and pursue any remedies at law or in equity or both.

If any provision of this Section conflicts with any provision of the Agreement, the provision of this Section shall govern.

Contractor Initials JBO  
Date 5-31-18



STATE OF NEW HAMPSHIRE  
DEPARTMENT OF REVENUE ADMINISTRATION  
OFFICE OF THE COMMISSIONER

CONTRACTOR DISCLOSURE INVESTIGATION REPORT

This *Contractor Disclosure Investigation Report* is to be completed by the Internal Auditor during the investigation of a disclosure incident in accordance with Policy No. 16-007.

Date: \_\_\_\_\_

Name of Individual Reporting Disclosure: \_\_\_\_\_

Name of Contractor: \_\_\_\_\_

Name of Contractor Employee(s) Responsible for Disclosure: \_\_\_\_\_

Number of Interviews Conducted: \_\_\_\_\_

Interview #1:

Date of Interview: \_\_\_/\_\_\_/\_\_\_

Time Interview Began: \_\_\_\_\_ am/pm

Time Interview Ended: \_\_\_\_\_ am/pm

Name of Interviewed Individual: \_\_\_\_\_

Name of Individuals Present During Interview: \_\_\_\_\_

Interview #2:

Date of Interview: \_\_\_/\_\_\_/\_\_\_

Time Interview Began: \_\_\_\_\_ am/pm

Time Interview Ended: \_\_\_\_\_ am/pm

Name of Interviewed Individual: \_\_\_\_\_

Name of Individuals Present During Interview: \_\_\_\_\_

\_\_\_\_\_

Interview #3:

Date of Interview: \_\_\_/\_\_\_/\_\_\_

Time Interview Began: \_\_\_\_\_ am/pm

Time Interview Ended: \_\_\_\_\_ am/pm

Name of Interviewed Individual: \_\_\_\_\_

Name of Individuals Present During Interview: \_\_\_\_\_

\_\_\_\_\_

Summary of Disclosure Incident Findings (attach all documentation):

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Contractor Initials *JBV*  
Date *7-31-18*

**INTERNAL AUDITOR CERTIFICATION**

I hereby certify that the information contained in this *Contractor Disclosure Investigation Report* is accurate and complete to the best of my knowledge and belief.

\_\_\_\_\_  
Internal Auditor Name (printed)

\_\_\_\_\_  
Internal Auditor Signature

\_\_\_\_\_  
Date

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**ASSISTANT COMMISSIONER'S OFFICE USE ONLY**

[PLACE DATE STAMP WHEN RECEIVED BELOW]

Contractor Initials   JSD    
Date   1-31-18



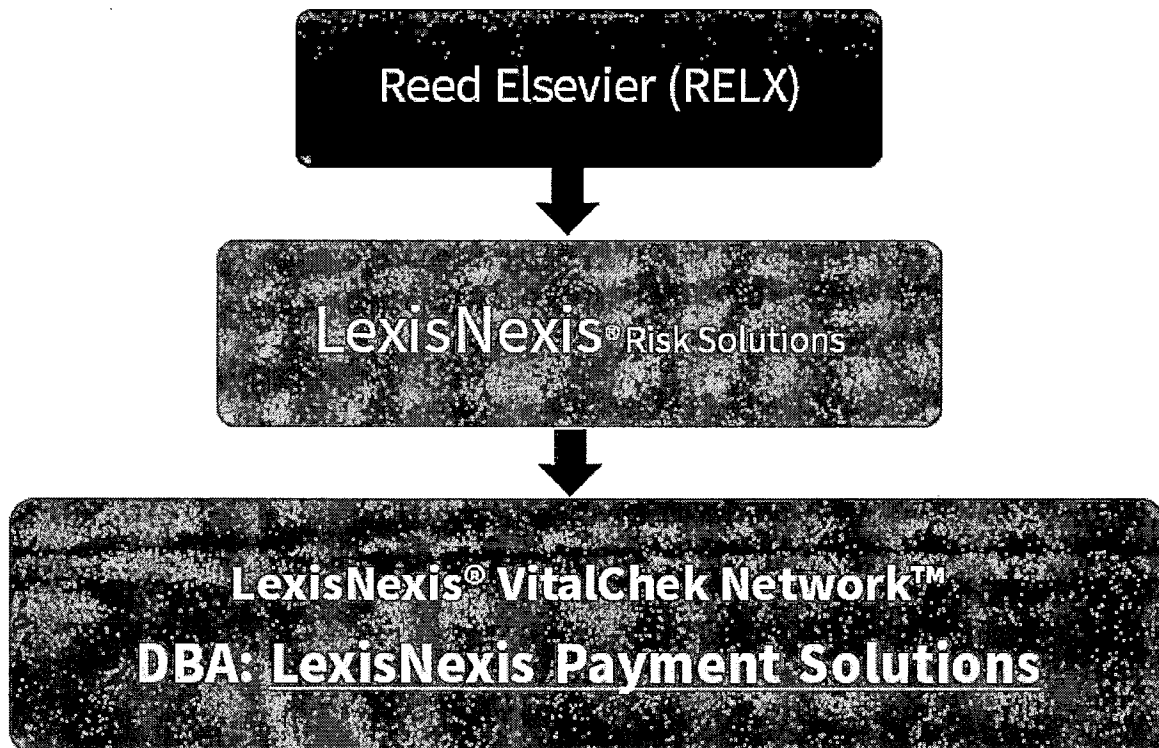


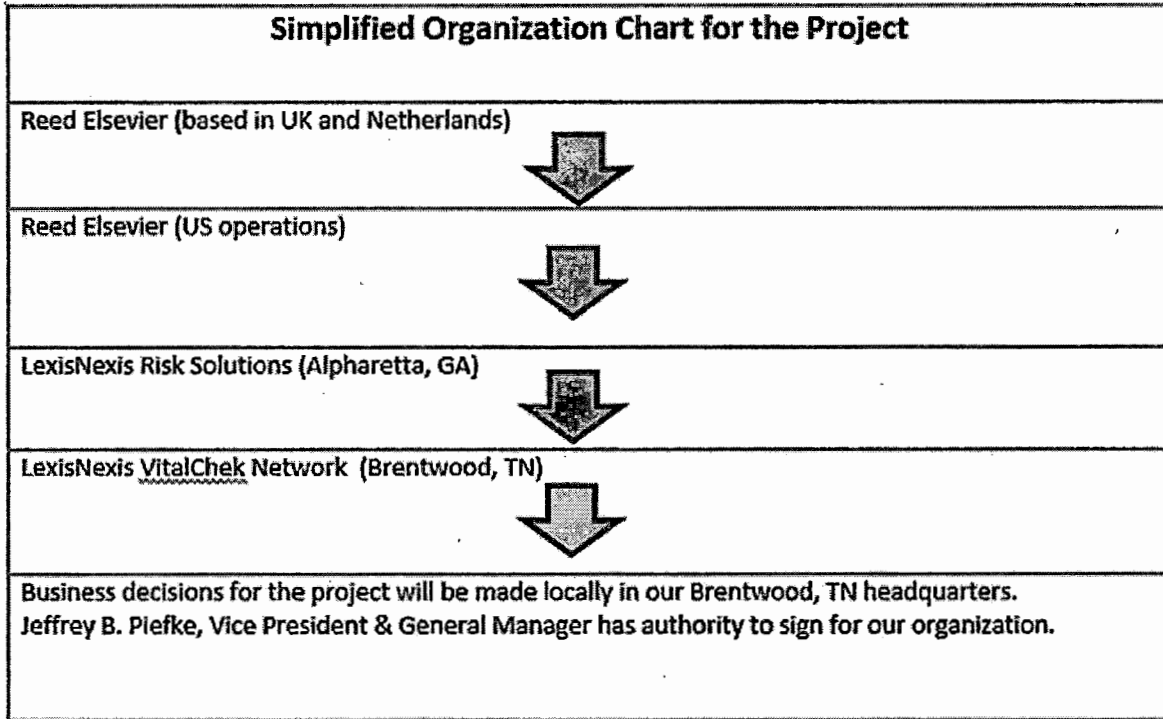
## About LexisNexis Payment Solutions

LexisNexis® VitalChek and Payment Solutions have provided electronic payment processing solutions since 1987, almost exclusively oriented toward government agencies. Our experience in credit card and electronic check payment facilitation includes more than 2800 government agencies in 48 states, Washington, D.C., Guam, Puerto Rico and American Samoa. Collectively, these agencies include courts, utilities, finance and treasury departments, and transportation agencies, state revenue departments, and public safety departments. LexisNexis VitalChek is comprised of two lines of business: customized solutions for remote ordering of vital records and electronic payment services oriented toward government agencies.

The vital records line of business supports state and local health departments for the purchase of certified birth, death, marriage, and divorce certificates. These services are marketed under the "VitalChek" trade name. LexisNexis facilitates vital records transactions in every state, except New Jersey due to specific state statutes that prohibit service fee for certain government services.

The credit card and electronic check payment processing business accounts for over 9 million transactions per year with over \$1 billion in gross authorizations; and is marketed under LexisNexis® Payment Solutions. We are a certified payment facilitator for Vantiv. We have a long-standing relationship with card issuers, including MasterCard and Visa and are directly involved in card association initiatives surrounding new programs and data security.





# State of New Hampshire

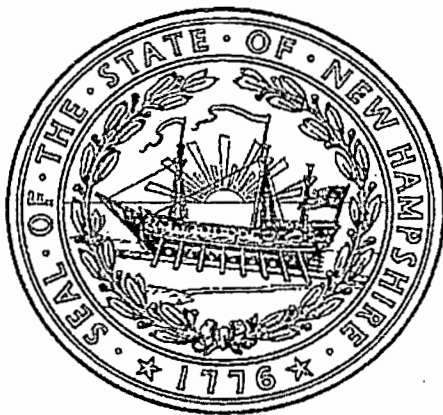
## Department of State

### CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that LEXISNEXIS VITALCHEK NETWORK INC. is a Tennessee Profit Corporation registered to transact business in New Hampshire on October 20, 1995. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 237393

Certificate Number: 0004100992



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 23rd day of May A.D. 2018.

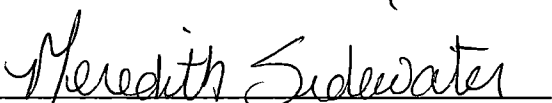
A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State

### Delegation of Authority

WHEREAS, the undersigned Secretary of LexisNexis VitalChek Network Inc., a Tennessee corporation (the "Corporation") deems it convenient and desirable to designate another person to take action with respect to the execution of a contract with the State of New Hampshire, Department of Administrative Services, substantially in the form attached hereto (the "Contract");

NOW, THEREFORE, the undersigned does hereby designate Jeffrey B. Piefke, the appointed Vice President and General Manager of the Corporation, as the person duly authorized to exercise the authority granted by the undersigned, as described above, and, in exercise of such authority, to execute, in the name and on behalf of the Corporation, the Contract or any renewal thereof.

  
Meredith L. Sidewater, Secretary

Dated: May 31, 2018



# CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)  
05/24/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Aon Risk Services Northeast, Inc. Boston MA Office 53 State Street Suite 2201 Boston MA 02109 USA	<b>CONTACT NAME:</b> PHONE (A/C. No. Ext): (866) 283-7122      FAX (A/C. No.): (800) 363-0105	
	<b>E-MAIL ADDRESS:</b>	
<b>INSURED</b> LexisNexis Risk Solutions Inc. 1000 Alderman Drive Alpharetta GA 30005 USA	<b>INSURER(S) AFFORDING COVERAGE</b>	
	<b>INSURER A:</b> Zurich American Ins Co      NAIC # 16535	
	<b>INSURER B:</b> ACE American Insurance Company      22667	
	<b>INSURER C:</b> Lloyd's Syndicate No. 2623      AA1128623	
	<b>INSURER D:</b> Zurich Insurance Plc      AA1780059	
	<b>INSURER E:</b> <b>INSURER F:</b>	

**COVERAGES**      **CERTIFICATE NUMBER: 570071362274**      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.      **Limits shown are as requested**

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			OGLG24876512	01/01/2018	01/01/2019	EACH OCCURRENCE \$10,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$10,000,000 GENERAL AGGREGATE \$10,000,000 PRODUCTS - COMP/OP AGG \$10,000,000 Liquor Liability Lim \$5,000,000
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> Collision Ded \$1,000 <input checked="" type="checkbox"/> Comp Ded \$1,000			8376848 19	01/01/2018	01/01/2019	COMBINED SINGLE LIMIT (Ea accident) \$5,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED      RETENTION						EACH OCCURRENCE AGGREGATE
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	837684519	01/01/2018	01/01/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE-EA EMPLOYEE \$1,000,000 E.L. DISEASE-POLICY LIMIT \$1,000,000
C	E&O-PL-Primary			FSCE01800015 SIR applies per policy terms & conditions	01/01/2018	12/31/2018	Aggregate Limit \$10,000,000 Per Occurrence \$10,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 The Errors & Omissions/Professional Liability policy includes coverage for 3rd party liability arising out of Cyber-related events. State of New Hampshire is included as Additional Insured in accordance with the policy provisions of the General Liability and Automobile Liability policies.

<b>CERTIFICATE HOLDER</b>  State of New Hampshire Administrative Services State House Annex, Room 102 25 Capitol Street Concord NH 03301 USA	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE  <i>Aon Risk Services Northeast, Inc.</i>
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Holder Identifier:      Certificate No.: 570071362274