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STATE OF NEW HAMPSHIRE
DEPARTMENT OF CORRECTIONS
DIVISION OF ADMINISTRATION

P.O. BOX 1806
CONCORD, NH 03302-1806
603-271-5610 FAX: 603-271-5639
TDD Access: 1-800-735-2964

William L. Wrenn
Commissioner

Bob Mullen
Director

April 11, 2014

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Executive Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the New Hampshire Department of Corrections to enter into a contract with Bio-Medical Applications of New Hampshire, Inc. (VC # 174585), 248 Pleasant Street, Suite G400, Concord, NH 03301 in the amount of \$320,736.00 to provide Outpatient Renal Hemodialysis Services for the NH Department of Corrections from July 1, 2014 through June 30, 2016 effective upon Governor and Executive Council approval with the option to renew for one (1) additional period of up to two (2) year(s). 100% General Funds

Funding for this contract is available in account, Medical-Dental, as follows with the authority to adjust encumbrances in each of the State fiscal years through the Budget Office, if needed and justified. Funding for SFY 2016 is contingent upon the availability and continued appropriation of funds.

Bio-Medical Applications of New Hampshire, Inc.			
Account	Description	SFY 2015	SFY 2016
02-46-46-465010-8234-101-500729	Medical and Dental	\$160,368.00	\$160,368.00
Total Contract Amount:			\$320,736.00

EXPLANATION

This contract is for the provision of Outpatient Renal Hemodialysis Services for inmates for the Northern Correctional Facility (NCF), Berlin, NH, the NH State Prison for Men (NHSP-M) and Secure Psychiatric Unit (SPU), Concord, NH and the NH State Prison for Women (NHSP-W), Goffstown, NH. Hemodialysis is a medical treatment for people who suffer either acute or chronic renal failure. Inmates with these conditions must receive hemodialysis treatment until kidney function improves, or as other clinical interventions become necessary, or indefinitely to sustain life in cases in which no other curative measures are feasible. Hemodialysis takes the place of normal kidney function, cleansing the blood of toxins. The primary cause of chronic renal failure in our inmate population is long-term chemical dependency or substance abuse, long-term diabetes or co-morbidity illnesses of diabetes. Other, uncommon causes include hereditary/congenital diseases. Currently, the New Hampshire Department of Corrections has one inmate receiving hemodialysis treatment, and one currently

undergoing medical workup in preparation for dialysis treatment and two inmates within the NH State Prisons system approaching end stage renal failure.

The treatment of renal failure is medically complicated and expensive. For non-inmates, Medicare supplements the cost of hemodialysis for citizens that have end stage renal disease. The Center for Medicare and Medicaid Services (CMS) has specific regulations prohibiting inmates from receiving assistance through their programs. Therefore, individual correctional jurisdictions must pay all hemodialysis expenses for their inmate population.

Prior to the expiration of the current contract, the New Hampshire Department of Corrections issued a request for proposal (RFP) for the provision of Outpatient Renal Hemodialysis Services to seek a potential and better per treatment service rate for outpatient renal hemodialysis services.

The RFP was posted on the New Hampshire Department of Corrections website: <http://www.nh.gov.nhdoc/business/rfp.html> for six (6) consecutive weeks and notified three (3) potential vendors of the RFP posting. As a result of the issuance of the RFP, one (1) potential vendor, the incumbent, responded by submitting their proposal with a fixed base rate of \$257.00 per treatment visit. In addition to the fixed base rate, an individual case-mix adjustment rate is added to the fixed base rate. The case-mix adjustment rate may fluctuate due to an individual's case mix factors such as body surface area, body mass index and age.

Hemodialysis services are performed three (3) times a week with a composite base rate cost per visit of \$257.00 for a total of 156 treatments per inmate, per year, for an annual per patient cost of \$40,092.00. The prior contracted rate for Outpatient Renal Hemodialysis treatment services was \$330.00 per session.

The New Hampshire Department of Corrections is estimating the need to provide hemodialysis for 4 inmates per year for an annual cost of \$160,368.00, making the total cost for the two (2) year contract \$320,736.00.

This RFP was scored utilizing a consensus methodology by a three person evaluation committee for the purposes of preserving the privacy of the evaluators. The evaluation committee consisted of New Hampshire Department of Corrections employees: Helen Hanks, MM, Administrative Director, Division of Medical/Forensic Services; Joyce Leeka, RHIA, Medical Operations Administrator, Division of Medical/Forensic Services and Jennifer Lind, Contract and Grant Administrator, Administration.

Respectfully Submitted,



William L. Wren
Commissioner



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**Outpatient Renal Hemodialysis Services
RFP Bid Evaluation and Summary
NHDOC 14-07-GFMED**

Proposal Receipt and Review:

- Proposals will be reviewed to initially determine if minimum submission requirements have been met. The review will verify that the proposal was received before the date and time specified, with the correct number of copies, the presence of all required signatures, and that the proposal is sufficiently responsive to the needs outlined in the RFP to permit a complete evaluation. Failure to meet minimum submission requirements will result in the proposal being rejected and not included in the evaluation process.
- The Department will select a group of personnel to act as an evaluation team. Upon receipt, the proposal information will be disclosed to the evaluation committee members only. The proposal will not be publicly opened.
- The Department reserves the right to waive any irregularities, minor deficiencies and informalities that it considers not material to the proposal.
- The Department may cancel the procurement and make no award, if that is determined to be in the State's best interest.

Proposal Evaluation Criteria:

- Proposals will be evaluated based upon the proven ability of the respondent to satisfy the requirements of this request in the most cost-effective manner. Specific criteria are:
 - a. Total Estimated Cost – 50 points
 - b. Organizational Resources and Capability – 25 points
 - d. Program Structure/Plan of Operation – 15 points
 - e. Financial Stability – 5 points
 - f. References – 5 points
- Awards will be made to the responsive Vendor(s) whose proposals are deemed to be the most advantageous to the State, taking into consideration all evaluation factors in section 34 of NHDOC 14-07-GFMED RFP.
 - a. The contract will be awarded to the Bidder submitting the lowest total cost to the State based upon the New Hampshire Department of Corrections estimated volume as long as the Vendor's Ability to Provide Services, Financial Stability, Organizational Resources and Capability and Proof of Active Licensure are acceptable to the Department.

Evaluation Team Members:

- a. Helen Hanks, Director, Medical/Forensic Services, NH Department of Corrections
- b. Joyce Leeka, Operations Administrator, Medical/Forensic Services, NH Department of Corrections
- c. Jennifer Lind, Contract/Grant Administrator, Administration, NH Department of Corrections

Promoting Public Safety through Integrity, Respect, Professionalism, Collaboration and Accountability



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**Outpatient Renal Hemodialysis Services
RFP Scoring Matrix
NHDOC 14-07-GFMED**

Respondents:

- Bio-Medical Applications of New Hampshire, Inc.
248 Pleasant Street, Suite G400, Concord, NH 03301

Scoring Matrix Criteria:

- Proposals were evaluated based on the proven ability of the respondents to satisfy the provisions set forth in the Scope of Services in the most cost-effective manner.
 1. Cost – 50 points
 2. Organizational Resources and Capability – 25 points
 3. Program Structure/Plan of Operation - 15 points
 4. Financial Stability – 5 points
 5. References: 5 points

NHDOC 14-07-GFMED RFP Scoring Matrix		
<i>Evaluation Criteria</i>	<i>RFP Weight Point Value</i>	<i>Bio-Medical Applications of New Hampshire, Inc.</i>
Total Estimated Cost	50	50
Organizational Resources and Capability	25	25
Program Structure/Plan of Operation	15	15
Financial Stability	5	5
References	5	5
Total	100	100

Contract Award:

- Bio-Medical Applications of New Hampshire, Inc.
248 Pleasant Street, Suite G400, Concord, NH 03301



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**Outpatient Renal Hemodialysis Services
RFP Evaluation Committee Member Qualifications
NHDOC 14-07-GFMED**

Helen Hanks, MM, Division Director, Medical/Forensic Services:

Mrs. Hanks has served as the Director of the Medical & Forensic Services Division since 2011. Mrs. Hanks has made her career specific to the area of mental health and health care delivery since 1998 working with community mental health centers and Managed Behavioral Care organizations prior to her employment at the NH Department of Corrections. She has broad and specific knowledge of the correctional mental health system and behavioral health system, Laaman consent decree and Holliday Court Order, and the special needs of seriously mentally ill patients and inmates confined in the SPU, RTU and prison environments. Mrs. Hanks has a Bachelor of Science in Psychology from Plymouth State College with a Pre-Law minor and a Master of Management in Healthcare from Brandeis University.

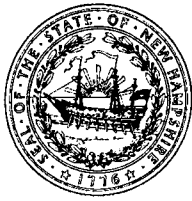
Joyce Leeka, RHIA, Medical Operations Administrator, Medical/Forensic Services:

Ms. Leeka has served as the HIM Administrator since 1989. Ms. Leeka currently researches and drafts RFP's for the division with guidance from her supervisors. She has broad and specific knowledge of the correctional mental health system, Laaman and Holliday consent decrees, and the special needs of seriously mentally ill patients and inmates confined in the SPU, RTU and prison environments.

Jennifer Lind, MBA, CMA, Contract and Grant Administrator, Administration:

Ms. Lind has served as the Contract and Grant Administrator since 2010. Ms. Lind is responsible for the development of the Department's request for proposals (RFPs), contracts and grants management. Ms. Lind's current responsibilities include all aspects of the RFP delivery from project management, data collection, drafting and cross function collaboration; procurement functions and management of the Department's medical, programmatic and maintenance contracts and provides managerial oversight to the Grant Division for the Department. Prior to Ms. Lind's promotion to the Contract/Grant Administrator, she held the Program Specialist IV, Contract Specialist position and the Grant Program Coordinator position of the Department. Prior to her employment with the Department, Ms. Lind held the position of Assistant Grants Administrator at the Community College System of New Hampshire for ten years. Ms. Lind received her Bachelor's of Science in Accounting from Franklin Pierce College and a Master's of Management with a Healthcare Administration concentration from New England College. Ms. Lind has supplemented her education from prior experience in the pre-hospital care setting and has maintained her Certified Medical Assistant license since 1998.

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**Outpatient Renal Hemodialysis Services
Bidders List
NHDOC RFP 14-07-GFMED**

Bio-Medical Applications of New Hampshire, Inc.

d/b/a NH Kidney Center 248 Pleasant St.

Pillsbury Building G400

Concord, NH 03301

Lynne Bamford, Director of Operations

(o) 603-436-4567

lynne.bamford@fmc-na.com

Leone Gagnon, Operations Manager

(o) 603-448-5550

leonie.gagnon@fmc-na.com

Kathryn M. Dickey, Regional VP

(o) 603-224-1738

kathy.dickey@fmc-na.com

Central New Hampshire Kidney Center

87 Spring Street

Laconia, NH 03246

Ninette Ishak, Administrator

(o) 603-528-3738

no email, requested to mail RFP

Gambro Healthcare (Davita)

38 Tyler Street

Nashua, NH 03061

Toby Panting, Regional Operations Director

(o) 603-598-1665

toby.panting@davita.com

Eli Cash, RFP Specialist in Hospital Services

(o) 619-933-8879

eli.cash@davita.com

601 Hawaii Street

El Segundo, CA 90245-4814

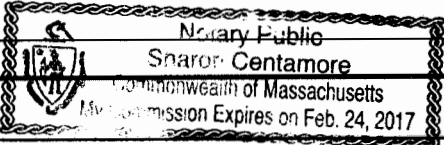
Promoting Public Safety through Integrity, Respect, Professionalism, Collaboration and Accountability

Subject: Outpatient Renal Hemodialysis Treatment Services FORM NUMBER P-37 (version 1/09)

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name <u>NH Department of Corrections</u>		1.2 State Agency Address <u>105 Pleasant Street, Concord, NH 03301</u>	
1.3 Contractor Name <u>Bio-Medical Applications of New Hampshire, Inc.</u>		1.4 Contractor Address <u>248 Pleasant Street, Concord, NH 03301</u>	
1.5 Contractor Phone Number <u>603-224-1738</u>	1.6 Account Number <u>02-46-46-465010-101-500729</u>	1.7 Completion Date <u>June 30, 2016</u>	1.8 Price Limitation <u>\$320,736.00</u>
1.9 Contracting Officer for State Agency <u>William L. Wrenn, Commissioner</u>		1.10 State Agency Telephone Number <u>603-271-5603</u>	
1.11 Contractor Signature <u>Kathryn M Dickey</u>		1.12 Name and Title of Contractor Signatory <u>Kathryn M. Dickey, Regional Vice President</u>	
1.13 Acknowledgement: State of <u>MA</u> , County of <u>Middlesex</u> On <u>3/27/14</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven 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 <u>[Seal]</u>		<u>Sharon Centamore</u>	
1.13.2 Name and Title of Notary or Justice of the Peace <u>Sharon Centamore</u>			
1.14 State Agency Signature <u>William L. Wrenn</u>		1.15 Name and Title of State Agency Signatory <u>William L. Wrenn, Commissioner</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) By: <u>M. U. Brun</u> On: <u>4/23/14</u>			
1.18 Approval by the Governor and Executive Council 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"), 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, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("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. 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.

Contractor Initials *LMD*
Date *3/5/14*

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 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 consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written 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 \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance 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 fifteen (15) 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 endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) 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.

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.

SECTION B: Scope of Services, Exhibit A

1. Purpose:

The purpose of this request for proposal is for the provision of outpatient renal hemodialysis services within a Vendor's facility for the male and female inmate/patient population who are under the custodial care of the NH Department of Corrections (NHDOC). Hemodialysis is a medical treatment for people who have been diagnosed with either acute or chronic renal failure. Inmates and patients under the auspices of the NH Department of Corrections with these conditions must receive hemodialysis treatment until kidney function improves, or as other clinical interventions become necessary, or indefinitely to sustain life in cases in which no other curative measures are feasible. Hemodialysis takes the place of normal kidney function, cleansing the blood of toxins. The primary cause of chronic renal failure in our inmate population is long-term chemical dependency or substance abuse, long-term diabetes or co-morbidity illnesses of diabetes. Other, uncommon causes include hereditary/congenital diseases.

2. Terms of Contract:

A Contract awarded by the NH Department of Corrections as a result of this RFP is expected to be effective for the period beginning July 1, 2014 or upon approval of the Governor and Executive Council (G&C) of the State of New Hampshire whichever is later through June 30, 2016, with an option to renew for one (1) additional period of up to two (2) years, only after the approval of the Commissioner of the NH Department of Corrections and the Governor and Executive Council.

3. Location of Services:

3.1. The Contractor shall provide the requested Outpatient Renal Hemodialysis services at the Vendor's dialysis center to inmates/patients from the location below which are marked with an "X":

Northern Region - NHDOC Northern NH Correctional Facility Location		
Northern Correctional Facility (NCF)	138 East Milan Road,	Berlin, NH 03570
Southern Region - NHDOC Southern NH Correctional Facility Locations		
NH State Prison for Men (NHSP-M)	281 North State Street,	Concord, NH 03301
Secure Psychiatric Unit (SPU)	281 North State Street,	Concord, NH 03301
NH State Prison for Women (NHSP-W)	317 Mast Road,	Goffstown, NH 03045
Community Corrections - Men (North End House)	281 North State Street,	Concord, NH 03301
Community Corrections - Men (Calumet House)	126 Lowell Street,	Manchester, NH 03104
Community Corrections - Women	60 Iron Works Road	Concord, NH 03301

3.2. Locations per contract year may be increased/decreased and or reassigned to alternative facilities during the Contract term at the discretion of the Department. Locations may be added and/or deleted after the awarding of a Contract at the discretion of the Department and upon mutual agreement of the Commissioner of the NH Department of Corrections and the Contractor. The Contractor shall be obligated to continue to provide services of the NH Department of Corrections even in the event that their geographic location changes.

- 3.3. Partial Proposals for the requested Outpatient Renal Hemodialysis services for the NH Department of Corrections Correctional Facilities shall not be accepted.
- 3.4. The Contractor shall provide the requested Outpatient Renal Hemodialysis services at their designated dialysis treatment facility.

4. Current Inmate/Patient/non-Adjudicated Resident Population: (NOT APPLICABLE)

5. Minimum Required Services:

- 5.1. Written Protocol: The New Hampshire Department of Corrections and the End-Stage Renal Disease (ESRD) Dialysis Unit will mutually develop a protocol governing specific responsibilities, policies and procedures to be used in rendering dialysis services to inmates/patients at the ESRD Dialysis Unit, including but not limited to:
 - 5.1.1. Development/implementation of individual care plans relative to the provision of dialysis services;
 - 5.1.2. NH Department of Corrections will provide for interchange of information necessary for the care of the inmate/patient;
 - 5.1.3. NH Department of Corrections will provide to the Contractor a contact person whose responsibilities include coordination of health care; and
 - 5.1.4. The ESRD will document on the NH Department of Corrections consultation form at the end of each treatment, the results of the dialysis treatment and any follow up care/orders needed to maintain the inmate/patient's health status.
- 5.2. Inmate/Patient Information: The NH Department of Corrections shall ensure that all appropriate medical and administrative information accompanies all inmates/patients at the time of transfer or referral to the ESRD Dialysis Unit. This information shall include, but is not limited to, where appropriate on the NH Department of Corrections consultation form:
 - 5.2.1. Inmate's/Patient's name, ID number, date of birth and copies of appropriate medical records, including history of illness, including laboratory and x-ray findings;
 - 5.2.2. Treatment currently provided to the inmate/patient, including medications;
 - 5.2.3. Name, address and telephone number of the nephrologist with admitting privileges at the ESRD Dialysis Unit that referred inmate/patient to ESRD Unit;
 - 5.2.4. Any advanced directives executed by the inmate/patient; and
 - 5.2.5. Prescription for treatment.
- 5.3. Specific Services Provided by the Parties:
 - 5.3.1. The NH Department of Corrections shall have the responsibility for arranging the transportation of the inmate/patient to and from the ESRD Dialysis Unit, including the selection of the mode of transportation. The use of restraint devices for safety and security purposes are of the sole discretion of the NH Department of Corrections staff providing the transportation services and will be utilized in accordance with the NH Department of Corrections policy and procedure directive governing proper application of said devices.
 - 5.3.2. The NH Department of Corrections shall be responsible for ensuring the inmate/patient is medically stable to undergo such transportation and for treatment at the ESRD Dialysis Unit.
 - 5.3.3. The NH Department of Corrections shall be responsible for all costs of transportation associated with the transfer of the inmate/patient to and from the ESRD Dialysis Unit and the NH Department of Corrections facility. If emergency transportation of an inmate/patient by ambulance to a nearby hospital is required,

the NH Department of Corrections shall be responsible for the cost of transportation.

5.4. Admission Criteria:

5.4.1. The inmate/patient's attending nephrologist and the NH Department of Corrections Chief Medical Officer (CMO) shall determine the need for a transfer or referral from a NH Department of Corrections facility to the ESRD Dialysis Unit. Upon such determination, the NH Department of Corrections will immediately notify the ESRD Dialysis Unit in writing.

5.4.2. After a decision has been made to admit an inmate/patient by a nephrologist with admitting privileges at the ESRD Dialysis Unit and the Chief Medical Officer of the NH Department of Corrections, the ESRD Dialysis Unit will accept responsibility for treatment of the inmate/patient. The treatment will be subject to the inmate/patient's satisfying the ESRD Dialysis Unit's criteria for admission and continued treatment, the ESRD Dialysis Unit will provide dialysis services to said inmate/patient.

5.4.3. The NH Department of Corrections will receive confirmation from the ESRD Dialysis Unit that it will accept the inmate/patient, and all necessary admission documentation will be completed by the NH Department of Corrections and sent, in advance, to the ESRD Dialysis Unit.

5.5. Discontinuation of Services on an Individual Level:

5.5.1. The Contractor may immediately, for a temporary period, discontinue the provision of dialysis service to any inmate/patient of the NH Department of Corrections who, in their sole discretion, does not observe the established responsibilities, policies and procedures of the ESRD Dialysis Unit. The ESRD Dialysis Unit must provide written documentation of the violation(s), which the inmate/patient has committed, or, is suspected of committing, either by action or non-action, within a twenty-four (24) hour period to the NH Department of Corrections.

5.5.2. After a discontinuation of services has occurred due to a violation of ESRD Dialysis Unit policies and procedures, to gain acceptance back by the ESRD Dialysis Unit the inmate/patient must petition the ESRD Dialysis Unit, in writing sent by certified mail, for the restoration of privileges to outpatient renal hemodialysis services of the ESRD Dialysis Unit. The ESRD Dialysis Unit may, by their own discretion, accept or deny the petition and must do so within ten (10) working days of receipt of the petition. The inmate/patient may petition the ESRD Dialysis Unit once in a thirty (30) day period from the issuance date of the notice of discontinuation of services and thirty (30) days after the issuance date of a notice of denial of a previous petition.

5.5.3. With documented cause, the ESRD Dialysis Unit may request in writing to the NH Department of Corrections that the "temporary" discontinued status of the inmate/patient be changed to a "permanent" discontinued status. If approved by the NH Department of Correction's Chief Medical Officer or designee, the renal hemodialysis services by the Contractor will no longer be available to the inmate/patient and the inmate/patient will no longer be able to petition the Contractor for services.

5.6. Standards of Care:

5.6.1. The Dialysis Unit will conform to standards not less than those required by any applicable laws and regulations of any local, state or federal regulatory body, and the same may be amended from time to time.

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- 5.6.2. The Contractor will provide only dialysis services and will perform no other services, medical or otherwise, except as such services shall relate to, or, are an integral part of the provision of dialysis services. No additional charges shall be added that are not allowed under Center for Medicare and Medicaid Services (CMS) billing rules and regulations.
- 5.6.3. The Contractor shall retain all management and administrative prerogatives and responsibilities, as would normally be assumed by the owner and operator of a medical facility.
- 5.6.4. Without limiting the generality of the foregoing, the Contractor agrees to provide dialysis services at the ESRD Dialysis Unit as follows:
 - 5.6.4.1. Operate the ESRD Dialysis Unit as a renal dialysis facility under the Medicare End Stage Renal Disease (“ESRD”) Program and if required, as a properly licensed medical facility under state laws and regulations;
 - 5.6.4.2. Provide all necessary equipment, personnel, supplies and services required for the operation of the ESRD Dialysis Unit including a business manager or administrator;
 - 5.6.4.3. Establish, modify and implement, policies and procedures concerning the administration of the ESRD Dialysis Unit including purchasing, personnel staffing, inventory control, equipment maintenance, accounting, legal, data processing, medical record keeping, laboratory, billing, collection, public relations, insurance, cash management, scheduling and hours of operation; and
 - 5.6.4.4. Provide the NH Department of Corrections written and verbal information on all aspects of the management of the inmates/patients’ care related to the provision of dialysis services, including, but not limited to, bleeding/hemorrhage, infection/bacteria, care of dialysis access site and disinfection of dialysis access site, any dietary requirements and directions on management of medical and non-medical emergencies.
- 5.7. HIPAA: The parties expressly agree to comply with all applicable patient information privacy and security regulations set for in the Health Insurance Portability and Accountability Act (“HIPAA”) final regulations for Privacy of Individually Identifiable Health Information by the federal due date for compliance, as amended from time to time.
- 5.8. Access to Books and Records: Until the expiration of four (4) years after the furnishing of the services provided under this Agreement, the Contractor will make available to the Secretary, United States Department of Health and Human Services, and the United States Comptroller General, and their representatives, a copy of this Agreement and such books, documents and records of the Company that are necessary to certify the nature and extent of any cost incurred by the NH Department of Corrections.
- 5.9. Notices: All notices pursuant to this Agreement shall be in writing and shall be given by depositing said notices in the United States registered or certified mails, return receipt requested, addressed to the parties at addresses as may hereafter be specified by any party or parties. All notices given in the manner prescribed in this section shall be deemed properly served upon receipt.

6. General Service Provisions:

- 6.1. Tools and Equipment: (NOT APPLICABLE)

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- 6.2. Rules and Regulations: The Contractor agrees to comply with all rules and regulations of the NH Department of Corrections as they pertain to transport of inmate/patients and security procedures while at the dialysis facility.
- 6.3. Licenses, Credentials, Certificates: The Contractor shall ensure all staff members meet the requirements of the State and CMS for dialysis facilities. The Contractor and its staff shall possess the credentials, licenses and/or certificates required by law and regulations to provide the services required.
- 6.4. Contractor Employee Information: (NOT APPLICABLE)
- 6.5. Additional Facilities: Upon agreement of both parties, additional facilities belonging to the NH Department of Corrections may be added to the Contract. If it is necessary to increase the price limitation of the Contract, this provision will require Governor and Executive Council approval.
- 6.6. Change of Ownership: In the event that the Contractor should change ownership for any reason whatsoever, the NH Department of Corrections shall have the option of continuing under the Contract with the Contractor or its successors or assigns for the full remaining term of the Contract, continuing under the Contract with the Contractor or, its successors or, assigns for such period of time as determined necessary by the NH Department of Corrections, or terminating the Contract.
- 6.7. Contractor Designated Liaison: The Contractor shall designate a representative to act as a liaison between the Contractor and the Department for the duration of the Contract and any renewals thereof. The Contractor shall, within five (5) days after the award of the Contract, submit a written identification and notification to the NH Department of Corrections of the name, title, address, telephone & fax number, of its organization as a duly authorized representative to whom all correspondence, official notices and requests related to the Contractor's performance under the Contract.
 - 6.7.1. Any written notice to the Contractor shall be deemed sufficient when deposited in the U.S. mail, postage prepaid and addressed to the person designated by the Contractor under this paragraph.
 - 6.7.2. The Contractor shall have the right to change or substitute the name of the individual described above as deemed necessary provided that any such change is not effective until the Commissioner of the NH Department of Corrections actually receives notice of this change.
 - 6.7.3. Changes of the named Liaison by the Contractor must be made in writing and forwarded to: NH Department of Corrections, Division Director, Medical and Forensic Services, or designee, P.O. Box 1806, Concord, NH 03302
- 6.8. Contractor Liaison's Responsibilities:
 - 6.8.1. Representing the Contractor on all matters pertaining to the Contract and any renewals thereof. Such representative shall be authorized and empowered to represent the Contractor regarding all aspects of the Contract and any renewals thereof;
 - 6.8.2. Monitoring the Contractor's compliance with the terms of the Contract and any renewals thereof;
 - 6.8.3. Receiving and responding to all inquiries and requests made by NH Department of Corrections in the time frames and format specified by NH Department of Corrections in this RFP and in the Contract and any renewals thereof; and
 - 6.8.4. Meeting with representatives of NH Department of Corrections on a periodic or as-needed basis to resolve issues which may arise.
- 6.9. NH Department of Corrections Contract Liaison Responsibilities: The NH Department of Corrections Commissioner of Corrections, or designee, shall act as liaison between the Contractor and NH Department of Corrections for the duration of the Contract and any

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renewals thereof. NH Department of Corrections reserves the right to change its representative, at its sole discretion, during the term of the Contract, and shall provide the Contractor with written notice of such change. Responsibilities of the NH Department of Corrections representative are:

- 6.9.1. Representing the NH Department of Corrections on all matters pertaining to the Contract. The representative shall be authorized and empowered to represent the NH Department of Corrections regarding all aspects of the Contract subject to the approval of the Governor and Executive Council of the State of New Hampshire, where needed;
 - 6.9.2. Monitoring compliance with the terms of the Contract;
 - 6.9.3. Responding to all inquiries and requests related to the Contract made by the Contractor, under the terms and within the time frames specified by the Contract;
 - 6.9.4. Meeting with the Contractor's representative on a periodic or as-needed basis and resolving issues which arise; and
 - 6.9.5. Informing the Contractor of any discretionary action taken by NH Department of Corrections pursuant to the provisions of the Contract.
- 6.10. **Reporting Requirements:** The NH Department of Corrections shall, at its sole discretion:
- 6.10.1 Request the Contractor to provide proof of any and all permits to perform Outpatient Renal Hemodialysis services as required by authorities having local, state and/or federal jurisdiction at any time during the life of the Contract and any renewals thereof;
 - 6.10.2. Request the Contractor to provide any and all reports on an as needed basis according to a schedule and format to be determined by the NH Department of Corrections; and
 - 6.10.3. Reports and/or information requests shall be forwarded to NH Department of Corrections, Division Director, Medical and Forensic Services, or designee, P.O. Box 1806, Concord, NH 03302.
- 6.11. **Performance Evaluation:** NH Department of Corrections shall, at its sole discretion:
- 6.11.1. Monitor and evaluate the Contractor's compliance with the terms of the Contract and any renewals thereof;
 - 6.11.2. The Director and the Operations Administrator of Medical and Forensic Services of the NH Department of Corrections may meet with the Contractor at a minimum of twice (2) a year to assess the performance of the Contractor relative to the Contractor's compliance with the Contract;
 - 6.11.3. Request additional reports and/or reviews the NH Department of Corrections deems necessary for the purposes of monitoring and evaluating the performance of the Contractor under the Contract;
 - 6.11.4. Inform the Contractor of any dissatisfaction with the Contractor's performance and include requirements for corrective action;
 - 6.11.5. Terminate the Contract, if NH Department of Corrections determines that the Contractor is:
 - 6.11.5.1. Not in compliance with the terms of the Contract;
 - 6.11.5.2. Has lost or has been notified of intention to lose their accreditation and/or licensure;
 - 6.11.5.3. Has lost or has been notified of intention to lose their Federal certification and/or licensure; and
 - 6.11.5.4. Terminate the Contract as otherwise permitted by law.

7. Other Contract Provisions:

- 7.1. Modifications to the Contract: In the event of any dissatisfaction with the Contractor's performance, the NH Department of Corrections will inform the Contractor of any dissatisfaction and will include requirements for corrective action.
- 7.1.1. The Department of Corrections has the right to terminate the Contract, and any renewal Contracts thereof, if the NH Department of Corrections determines that the Contractor is:
- a.) Not in compliance with the terms of the Contract; or
 - b.) As otherwise permitted by law or as stipulated within this Contract.
- 7.2. Coordination of Efforts: The Contractor shall fully coordinate his or her activities in the performance of the Contract with those of the NH Department of Corrections. As the work of the Contractor progresses, the Contractor shall make advice and information on matters covered by the Contract available to NH Department of Corrections as requested by NH Department of Corrections throughout the effective period of the Contract and any renewals thereof.

8. Bankruptcy or Insolvency Proceeding Notification:

- 8.1. Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the Contractor shall notify the NH Department of Corrections immediately.
- 8.2. Upon learning of the actions herein identified, the NH Department of Corrections reserves the right at its sole discretion to either cancel the Contract in whole or in part, or, re-affirm the Contract in whole or in part.

9. Embodiment of the Contract:

- 9.1. The Contract between the NH Department of Corrections and the Contractor shall consist of:
- 9.1.1. Request for Proposal (RFP) and any amendments thereto;
 - 9.1.2. Proposal submitted by the Vendor in response to the RFP; and/or
 - 9.1.3. Negotiated document (Contract) agreed to by and between the parties that is ratified by a "meeting of the minds," after careful consideration of all of the terms and conditions, and that is approved by the Governor and Executive Council of the State of New Hampshire.
- 9.2. In the event of a conflict in language between the documents referenced above, the provisions and requirements set forth and/or referenced in the negotiated document noted in 9.1.3. shall govern.
- 9.3. The NH Department of Corrections reserves the right to clarify any contractual relationship in writing with the concurrence of the Contractor, and such written clarification shall govern in case of conflict with the applicable requirements stated in the RFP or the Vendor's Proposal and/or the result of a Contract.

10. Cancellation of Contract:

- 10.1. The Department of Corrections may cancel the Contract at any time for breach of Contractual obligations by providing the Contractor with a written notice of such cancellation.
- 10.2. Should the NH Department of Corrections exercise its right to cancel the Contract for such reasons, the cancellation shall become effective on the date as specified in the notice of cancellation sent to the Contractor.
- 10.3. The NH Department of Corrections reserves the right to terminate the Contract without penalty or recourse by giving the Vendor a written notice of such termination at least sixty (60) days prior to the effective termination date.

10.4. The NH Department of Corrections reserves the right to cancel this Contract for the convenience of the State with no penalties by giving the Contractor sixty (60) days notice of said cancellation.

11. Contractor Transition:

NH Department of Corrections, at its discretion, for any Contract resulting from this RFP, may require the Contractor to work cooperatively with any predecessor and/or successor Vendor to assure the orderly and uninterrupted transition from one Vendor to another.

12. Audit Requirement:

Contractor agrees to comply with any recommendations arising from periodic audits on the performance of this contract, providing they do not require any unreasonable hardship, which would normally affect the value of the Contract.

13. Additional Items/Locations:

Upon agreement of both party's additional equipment and/or other facilities belonging to the NH Department of Corrections may be added to the Contract. In the same respect, equipment and/or facilities listed as part of the provision of services of the Contract may be deleted as well.

14. Information:

14.1. In performing its obligations under the Contract, the Contractor may gain access to information of the inmates/patients, including confidential information. The Contractor shall not use information developed or obtained during the performance of, or acquired or developed by reason of the Contract, except as is directly connected to and necessary for the Vendor's performance under the Contract.

14.2. The Contractor agrees to maintain the confidentiality of and to protect from unauthorized use, disclosure, publication, reproduction any and all information of the inmate/patient that becomes available to the Contractor in connection with its performance under the Contract.

14.3. In the event of unauthorized use or disclosure of the inmates/patients information, the Contractor shall immediately notify the NH Department of Corrections.

14.4. All material developed or acquired by the Contractor, due to work performed under the Contract shall become the property of the State of New Hampshire. No material or reports prepared by the Contractor shall be released to the public without the prior written consent of NH Department of Corrections.

14.5. All financial, statistical, personnel and/or technical data supplied by NH Department of Corrections to the Contractor are confidential. The Contractor is required to use reasonable care to protect the confidentiality of such data. Any use, sale or offering of this data in any form by the Contractor, or any individual or entity in the Contractor's charge or employ, will be considered a violation of the Contract and any renewals thereof and may be cause for Contract termination. In addition, such conduct may be reported to the State Attorney General for possible criminal prosecution.

15. Public Records:

NH RSA 91-A guarantees access to public records. As such, all responses to a competitive solicitation are public records unless exempt by law. Any information submitted as part of a bid in response to this Request for Proposal or Request for Bid (RFB) or Request for Information (RFI) may be subject to public disclosure under RSA 91-A. In addition, in accordance with RSA 9-F:1, any contract entered into as a result of this RFP (RFB or RFI) will be made accessible to the public online via the website: Transparent NH <http://www.nh.gov/transparentnh/>. Accordingly, business financial

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information and proprietary information such as trade secrets, business and financial models and forecasts, and proprietary formulas may be exempt from public disclosure under RSA 91-A:5, IV. If a Bidder believes that any information submitted in response to a Request for Proposal, Bid or Information, should be kept confidential as financial or proprietary information, the Bidder must specifically identify that information in a letter to the State Agency. Failure to comply with this section may be grounds for the complete disclosure of all submitted material not in compliance with this section.

16. Special Notes:

- 16.1. The headings and footings of the sections of this document are for convenience only and shall not affect the interpretation of any section.
- 16.2. The NH Department of Corrections reserves the right to require use of a third party administrator during the life of the Contract and any renewals thereof.
- 16.3. Locations per contract year may be increased/decreased and or reassigned to alternate facilities during the Contract term at the discretion of the Department. Locations may be added and/or deleted after the awarding of a Contract at the discretion of the Department and upon mutual agreement of the Commissioner of the Department of Corrections and the Contractor.
- 16.4. In the event that the NH Department of Corrections wishes to add or remove facilities at which the Contractor is to provide services, it shall:
 - 16.4.1. Give the Contractor fourteen (14) days written notice of the proposed change; and
 - 16.4.2. Secure the Contractor's written agreement to the proposed changes.
- 16.5. Notwithstanding the foregoing, or any provision of this Agreement to the contrary, in no event shall changes to facilities be allowed that modify the "Completion Date" or "Price Limitation" of the Agreement.
- 16.6. The NH Department of Corrections shall not be held liable for finders, placement, advertising fees or any related hiring fees incurred by the Contractor.
- 16.7. The NH Department of Corrections shall not be held liable for relocation expenses to include lodging, temporary housing or mileage fees as a condition of employment of the Contractor's staffing personnel for the duration or term of the Contract and any renewals thereof.
- 16.8. The Department of Corrections shall not agree to liquidated damage provisions on behalf of the Contractor and/or employees represented by the Contractor. If the Contractor requires the NH Department of Corrections staff signature validation of the Contractor's employees work schedule and/or time sheet, the Contractor shall recognize:
 - 16.8.1. NH Department of Corrections staff does not have contracting and payment authority.

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2. Fee Structure for Outpatient Renal Hemodialysis Services:

- 2.1. Outpatient Renal Hemodialysis rates shall be based on the Centers for Medicare & Medicaid Services (CMS) End-Stage Renal Disease (ESRD) PPS base rate plus no more than ten percent (10%) as implemented through the NH Legislature in the passage of House Bill (HB) Two (2) which adopted the language of Senate Bill 185 that states:
- 2.1.1. Medical Services for State Prisoners. Amend RSA 623-C:2, I and II to read as follows: (a) Except as provided in subparagraphs (b) through (d), *the Department of Corrections or its agent shall pay health care facilities and hospitals* 110 percent (110%) of the Medicare allowable rate for inpatient, *outpatient*, or emergency room care provided for prisoners in state correctional facilities. *In this chapter, health care facilities mean ambulatory and specialty-medical services centers licensed under RSA 151, and shall include but not be limited to surgical, rehabilitation, long term, oncology, and dialysis centers, but shall not include physician practices and community health care clinics.*
- 2.1.2. Using the 2014 CMS ESRD PPS base rate, the Vendor shall respond with a rate that is reasonable based on the annual publication of composite rates in the Federal Register. The Contractor may submit requests for increase per visit rates as the rates are adjusted by CMS and published in the Federal Register by submitting a letter to the New Hampshire Department of Corrections Medical Operations Administrator with the attached materials from CMS within sixty (60) days of the rate changes. The NH Department of Corrections recognizes that CMS is replacing the basic case-mixed adjusted composite payment system with an End-Stage Renal Dialysis PPS (Prospective Payment System) by 2014. The Contractor should provide pricing for 2014 based on the CY 2014 ESRD PPS base rate. The NH Department of Corrections recognizes the rate determination for 2014 shall be one hundred percent (100%) of the PPS payment.
- 2.1.2.1 The amount submitted for reimbursement shall conform to all coding and billing conventions of the CMS for ESRD outpatient facilities utilizing the ESRD PPS Pricer Calculator plus no more than ten percent (10%) for the appropriate billing year.
- 2.1.2.2 The UB-04 Billing Claim form shall contain itemized service/product charges including any additional charges to the base rate for patient-level adjustments i.e. age, body surface area (BSA) and low body mass index (BMI) and outlier adjustments as approved by CMS.
- 2.1.2.3 The Outpatient Renal Hemodialysis per session service/treatment rate shall be based on the Contractor's dialysis facility 2014 CMS ESRD PPS base rate.
- 2.1.2.4. The Contractor shall use the following payment methodology to determine their Final ESRD Rate per session/treatment: [(CBSA Rate X Total Factor Adjustment Rate) X Total Case Mix Adjustment Rate = CMS Rate] X the Medicare Allowable Rate not to exceed 10%.
- 2.12.5. The Contractor shall provide a sample UB-04 Billing Claim Form/Invoice and a supplemental attachment demonstrating the breadth of the formulary requirements of section 2.1.2.4.

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3. Outpatient Renal Hemodialysis Fee Schedule:

- 3.1. Bidder's Service Location Facility: Concord, NH and Manchester, NH
(City & State)
- 3.2. The Contractor shall provide and complete sections (b.-g.) of the Rate Data and Factor Adjustments Calculation Table, below.

<i>Rate Data and Factor Adjustments Calculation Table</i>			
RATE DATA:		ESRD PRICER YR USED:	a. 2014
b.	CBSA Rate:	\$ 256.51	
c.	Rate (100% CBSA)		\$ 256.51
FACTOR ADJUSTMENTS:			
d.	Drug Add-on Factor (DAF):	N/A	
e.	Budget Neutrality Factor (BNF):	N/A	
f.	Total Factor Adjustments (DAF*BNF):	0	
g.	Rate after DAF and BNF:		\$ 256.51

Note: CBSA = Core Based Statistical Area (facility-level adjustments that include adjusters to reflect urban and rural differences in area wage levels using an area wage index developed from CBSA's). Facility-level adjustments also include an adjuster for facilities treating low-volume of dialysis treatments.

- 3.2.1. The Contractor shall provide, per Section 2.1.2.4., all applicable data elements (b.-g.) contained in the Rate Data and Factor Adjustments Calculation Table, above, and shall include this facility-specific data on each individual Final ESRD Worksheet throughout the term of the Contract.
- 3.3. The Contractor shall provide the Add-On percentage not to exceed ten percent (10%) of the Medicare Allowable Rate, per requirements of RSA 623-C:1, and complete section (a.) of the Medicare Allowable Rate Table, below.

<i>Medicare Allowable Rate Table</i>		
a.	Not to Exceed 10% of the Medicare Allowable Rate	% 10

- 3.3.1. The Contractor shall provide, per Section 2.1.2.4., all applicable data elements (a.) contained in the Medicare Allowable Rate Table, above, and shall include this rate on each individual Final ESRD Worksheet throughout the term of the Contract.
- 3.4. The Rate after DAF and BNF Section 3.2. (g) plus the Add-On Percentage not to exceed 10%, Section 3.3. (a) shall equal the Bidder's Facility Base Rate.
- 3.5. The Contractor shall provide and complete sections (a.-h.) of the Case-Mix Adjustments Table, below.

<i>Case-Mix Adjustments Table</i>		
CASE-MIX ADJUSTMENTS:		
a.	BSA:	5.13
b.	BSA Factor (BSAF):	1.020
c.	BMI:	6.41
d.	BMI Factor (BMIF):	1.025
e.	Age:	18-44
f.	Age Factor (AF):	1.171
g.	Total Case-Mix Factor (BSAF*BMIF*AF):	1.224
h.	Per Treatment Rate after all Case-Mix Factors:	\$ 313.97

- 3.6.1. The Contractor shall provide, per Sections 2.1.2.2. and 2.1.2.4., all applicable data elements (a.-h) contained in the Case-Mix Adjustment Table, above and shall include this patient-specific data on each individual Final ESRD Worksheet.
- 3.7. The Contractor shall attach all Final ESRD Worksheets, inclusive of all data elements from the following tables, below, to each corresponding inmate/patient UB-04 Billing Claim Form/Invoice through out the term of the Contract:
 - 3.7.1. Rate Data and Factor Adjustments Calculation Table;
 - 3.7.2. Medicare Allowable Rate Table not to exceed 10%; and
 - 3.7.3. Case-Mix Adjustment Table.
- 3.8. The Contractor shall provide the Final ESRD Rate on each individual inmate/patient UB-04 Billing Claim Form throughout the term of the Contract and shall equal the Final ESRD Rate identified on the individual inmate/patient Final ESRD Worksheet.

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4. Method of Payment:

- 4.1. Services are to be invoiced within thirty (30) days of the date of service.
- 4.2. The Outpatient Renal Hemodialysis per session service/treatment rate shall be based on the Contractor's dialysis facility 2014 CMS ESRD PPS base rate. .
- 4.3. The Contractor shall use the following payment methodology to determine their Final ESRD Rate per session/treatment: [(CBSA Rate X Total Factor Adjustment Rate) X Total Case Mix Adjustment Rate = CMS Rate] X the Medicare Allowable Rate not to exceed 10%.
- 4.4. All claims remitted for payment for each session service/treatment shall be submitted on a CMS UB-04 Billing Claim Form that includes and clearly identifies the Final ESRD Rate supplemented by the corresponding attached Final ESRD Rate Worksheet.
- 4.5. The Final ESRD Rate Worksheet shall include the following tables, inclusive of all corresponding data elements of each table, which will determine the Final ESRD Rate:
 - 4.5.1. Rate Data and Factor Adjustments Calculation Table;
 - 4.5.2. Case-Mix Allowable Rate Table; and
 - 4.5.3. Medicare Allowable Rate not to exceed 10%.
- 4.6. The Final ESRD Rate Worksheet shall include the following additional information:
 - 4.6.1. Inmate/Patient Name and Contractor's Account Number;
 - 4.6.2. Age;
 - 4.6.3. Sex;
 - 4.6.4. Vendor Facility's Name or Site and Address;
 - 4.6.5. Inmate/Patient Admittance/Discharge Date or Service/Treatment Date;
 - 4.6.6. Date of Invoice
 - 4.6.7. Billing Claim Form's Reference Number
 - 4.6.8. Any other pertinent inmate/patient information deemed necessary by the New Hampshire Department of Corrections.
- 4.7. Billing Claim Forms and attached Final ESRD Rate Worksheets shall be sent to the NH Department of Corrections, Bureau of Financial Services, P.O. Box 1806, Concord, NH 03302-1806.
- 4.8. The Billing Claim Form and attached Final ESRD Rate Worksheet will be reviewed and approved for processing and issuance of payment by the NH Department of Corrections Bureau of Financial Services.
- 4.9. The NH Department of Corrections Bureau of Financial Services may issue payment to the Vendor within thirty (30) days of receipt of an approved claims form. Claims forms not submitted in the appropriate format or deemed to contain billing errors will result in payment suspension until the claims form is deemed correct.
- 4.10. Payment shall be made to the name and address identified in the Contract as the "Contractor" unless: (a) the Contractor has authorized a different name and mailing address in writing or; (b) authorized a different name and mailing address in an official State of New Hampshire Contractor Registration Application Form; or (c) unless a court of law specifies otherwise. The Contractor shall not invoice federal tax. The State's tax-exempt certificate number is 026000618.
- 4.11. For contracting purposes, the State's Fiscal Calendar Year starts on July 1st and ends on June 30th of the following year. For budgeting purposes, year one of the Contract shall end on June 30, 2015.

5. Appropriation of Funding

- 5.1. The Contractor shall agree that the funds expended for the purposes of the Contract must be appropriated by the General Court of the State of New Hampshire for each State fiscal year included within the Contract period. Therefore, the Contract shall automatically terminate without penalty or termination costs if such funds are not fully appropriated.
- 5.1.1. In the event that funds are not fully appropriated for the Contract, the Contractor shall not prohibit or otherwise limit NH Department of Corrections the right to pursue and contract for alternate solutions and remedies as deemed necessary for the conduct of State government affairs.
- 5.1.2. The requirements stated in this paragraph shall apply to any amendments, thereof, or the execution of any option to extend the Contract.

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Section D: Special Provisions, Exhibit C

1. Special Provisions:

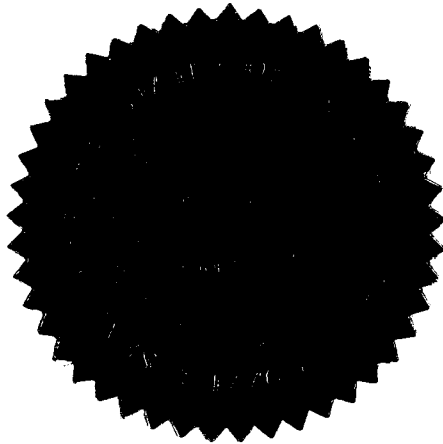
- 1.1. To amend the Insurance provision, section 14.1.1, of the original P-37 contract by deleting "\$2,000,000.00" per occurrence and inserting in its place "\$1,000,000.00."
- 1.2. To amend the Insurance provision, section 14.3, of the original P-37 contract by changing the last sentence of the clause to: "Cancellation notice by the Insurer to the Certificate Holder will be delivered in accordance with the policy provisions."

The remainder of this page is intentionally blank.

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 BIO-MEDICAL APPLICATIONS OF NEW HAMPSHIRE, INC. a(n) Delaware corporation, is authorized to transact business in New Hampshire and qualified on December 31, 1986. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 4th day of April, A.D. 2014

A handwritten signature in black ink, appearing to read "William M. Gardner", is written in a cursive style.

William M. Gardner
Secretary of State

CERTIFICATE OF AUTHORITY/VOTE
(Corporation with Notary Seal)

I, Douglas G. Kott, do hereby certify that:
(Name of Clerk of the Corporation, can not be the one who signed the contract)

1. I am a duly elected Clerk of Bio-Medical Applications of New Hampshire, Inc.
(The Corporation)

2. The following are true copies of two resolutions duly adopted at a meeting of the Board of Directors of the Corporation duly held on February 1, 2010.
(Date given authority)

RESOLVED: That this Corporation enter into a contract with the State of New Hampshire, acting through its Department of Corrections, Division of Administration, for the provision of Outpatient Renal Hemodialysis services.

RESOLVED: That the Regional Vice President
(Title of one who signed the contract)

is hereby authorized on behalf of this Corporation to enter into the said contract with the State and to execute any and all documents, agreements and other instruments, and any amendments, revisions, or modifications thereto, as he/she may deem necessary, desirable or appropriate.

3. The forgoing resolutions have not been amended or revoked, and remain in full force and effect as of 3/27/2014.
(Date Contract Signed)

4. Kathryn M. Dickey (is/are) the duly elected Regional Vice President
(Name of Contact Signatory) (Title of Contract Signatory)

of the Corporation.

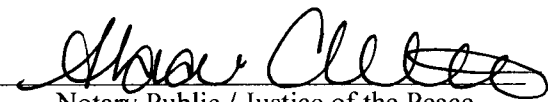

(Signature of the Clerk of the Corporation)

STATE OF MA

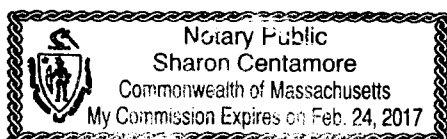
COUNTY OF Middlesex

The foregoing instrument was acknowledged before me this 27th day of March, 2014, by Douglas Kott.
(Name of person signing above, Clerk of the Corporation)

(NOTARY SEAL)


Notary Public / Justice of the Peace

Commission Expires: 2/24/17



BIO-MEDICAL APPLICATIONS OF NEW HAMPSHIRE, INC.

Action by Written Consent of the Board of Directors

February 1, 2010

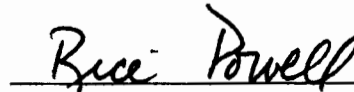
The undersigned, being all of the Directors of Bio-Medical Applications of New Hampshire, Inc., a Delaware corporation (the "Corporation"), hereby consent to the adoption of the following resolutions, which shall be treated as resolutions for all purposes and as fully as if said resolutions were adopted at a duly called and held meeting of the Board of Directors of the Corporation, effective as of the date set forth above:

RESOLVED: That the Corporation enter into a contract substantially in the form of the contract attached hereto as Exhibit A with the State of New Hampshire, acting through its Department of Corrections, for the provision of dialysis services.

RESOLVED: That the Regional Vice President is hereby authorized on behalf of the Corporation to enter into the said contract with the State and to execute any and all documents, agreements and other instruments, and any amendments, revisions, or modifications thereto, as he/she may deem necessary, desirable or appropriate.



Simon Castellanos



Rice Powell



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/24/2014

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 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).

PRODUCER *MARSH USA, INC. 501 MERRITT 7 NORWALK, CT 06856-6010 Attn: Healthcare.AccountsCSS@marsh.com Fax: 212 948-1307	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS:		FAX (A/C, No):
	INSURER(S) AFFORDING COVERAGE		
347600-ALL.-GAWUP-13-14 HOLD UMB GWP	INSURER A : Continental Casualty Company	NAIC # 20443	
INSURED FRESENIUS MEDICAL CARE HOLDINGS, INC. AND THEIR SUBSIDIARIES AND DIVISIONS 920 WINTER STREET WALTHAM, MA 02451	INSURER B : American Casualty Company Of Reading, Pa	20427	
	INSURER C : Transportation Insurance Co	20494	
	INSURER D : National Union Fire Insurance Co. Of Pittsburgh, PA	19445	
	INSURER E :		
	INSURER F :		

COVERAGES **CERTIFICATE NUMBER:** NYC-006365267-17 **REVISION NUMBER:** 6

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.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY			CCP 2095784352 (US)	10/01/2013	10/01/2014	EACH OCCURRENCE	\$ 1,000,000
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY			CCP 2095784366 (PR)	10/01/2013	10/01/2014	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ N/A
A	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR			CCP 2095784383 (Canada)	10/01/2013	10/01/2014	MED EXP (Any one person)	\$ N/A
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 3,000,000
							PRODUCTS - COMP/OP AGG	\$ 1,000,000
								\$
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC							
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/>	<input type="checkbox"/>	SCHEDULED AUTOS			BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/>	<input type="checkbox"/>	NON-OWNED AUTOS			PROPERTY DAMAGE (Per accident)	\$
								\$
D	<input checked="" type="checkbox"/> UMBRELLA LIAB			6797562	10/01/2013	10/01/2014	EACH OCCURRENCE	\$ 5,000,000
	<input type="checkbox"/> EXCESS LIAB						AGGREGATE	\$ 5,000,000
								\$
							DED	
							RETENTION \$	
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WC 2095784304 (AOS)	10/01/2013	10/01/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	
B	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)			WC 2095784318 (CA)	10/01/2013	10/01/2014	E.L. EACH ACCIDENT	\$ 2,000,000
C				WC 2095784321 (OR, WI)	10/01/2013	10/01/2014	E.L. DISEASE - EA EMPLOYEE	\$ 2,000,000
B	If yes, describe under DESCRIPTION OF OPERATIONS below			WC2095790345 (MN)	10/01/2013	10/01/2014	E.L. DISEASE - POLICY LIMIT	\$ 5,000,000
A	PROFESSIONAL LIABILITY			CCP 2095784352 (US)	10/01/2013	10/01/2014	PER OCCURRENCE	\$ 1,000,000
A				CCP 2095784366 (PR)	10/01/2013	10/01/2014	AGGREGATE	\$ 3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
EVIDENCE OF COVERAGE FOR BIO-MEDICAL APPLICATIONS OF NH D/B/A NEW HAMPSHIRE KIDNEY CENTER, BIO-MEDICAL APPLICATIONS OF NH D/B/A NEW HAMPSHIRE KIDNEY CENTER, EVIDENCE OF COVERAGE FOR BIO-MEDICAL APPLICATIONS OF MANCHESTER D/B/A MANCHESTER KIDNEY CENTER, BIO-MEDICAL APPLICATIONS OF MANCHESTER, D/B/A MANCHESTET KIDNEY CENTER

CERTIFICATE HOLDER

CANCELLATION

NH DEPARTMENT OF CORRECTIONS P.O. BOX 1806 CONCORD, NH 03302	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 of Marsh USA Inc. John Laprey

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ADDITIONAL REMARKS SCHEDULE

AGENCY *MARSH USA, INC.		NAMED INSURED FRESENIUS MEDICAL CARE HOLDINGS, INC. AND THEIR SUBSIDIARIES AND DIVISIONS 920 WINTER STREET WALTHAM, MA 02451	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 **FORM TITLE:** Certificate of Liability Insurance

PROFESSIONAL LIABILITY
 CONTINENTAL CASUALTY COMPANY
 POLICY NUMBER: CCP 2095784383 (Canada)
 POLICY PERIOD: 10/1/2013 - 10/1/2014
 LIMITS:
 PER OCCURRENCE \$1,000,000
 AGGREGATE \$3,000,000

**New Hampshire Department of Corrections
Division of Administration
Contract/Grant Unit**

Comprehensive General Liability Insurance Acknowledgement Form

The New Hampshire Office of the Attorney General requires that the Request for Proposal (RFP) package inform all proposal submitters of the State of New Hampshire's general liability insurance requirements. The limits of liability required are dependent upon your corporation's legal formation, and the annual total amount of contract work with the State of New Hampshire.

Please select only ONE of the checkboxes below that best describes your corporation's legal formation and annual total amount of contract work with the State of New Hampshire:

Insurance Requirement for (1) - 501(c) (3) contractors whose annual gross amount of contract work with the State does not exceed \$500,000, per RSA 21-I:13, XIV, (Supp. 2006): The general liability insurance requirements of standard state contracts for contractors that qualify for nonprofit status under section 501(c)(3) of the Internal Revenue Code and whose annual gross amount of contract work with the state does not exceed \$500,000, is comprehensive general liability insurance in amounts of not less than \$1,000,000 per claim or occurrence and \$2,000,000 in the aggregate. *These amounts may NOT be modified.*

- The contractor certifies that it **IS** a 501(c) (3) contractor whose annual total amount of contract work with the State of New Hampshire does **not** exceed \$500,000.

Insurance Requirement for (2) - All other contractors who do not qualify for RSA 21-I:13, XIV, (Supp. 2006), Agreement P-37 General Provisions, 14.1 and 14.1.1. Insurance and Bond, shall apply: 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, both for the benefits of the State, the following insurance: comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per incident or occurrence. *These amounts MAY be modified if the State of NH determines contract activities are a risk of lower liability.*

- (2) The contractor certifies it does **NOT** qualify for insurance requirements under RSA 21-I:13, XIV (Supp. 2006).

Please indicate your current comprehensive general liability coverage limits below, sign, date and return with your proposal package.

\$ _____ Per Claim \$ 1 M Per Incident/Occurrence \$ 3 M General Aggregate

Kathleen M. Dickey RVP
Signature & Title

3/27/14
Date

This acknowledgement must be returned with your proposal.

NH DEPARTMENT OF CORRECTIONS
HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT
BUSINESS ASSOCIATE AGREEMENT

The Contractor identified in Section 1.3 of the General Provisions of the Agreement agrees to comply with the Health Insurance Portability and Accountability Act, Public Law 104-191 and with the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160 and 164. As defined herein, "Business Associate" shall mean the Contractor and subcontractors and agents of the Contractor that receive, use or have access to protected health information under this Agreement and "Covered Entity" shall mean the State of New Hampshire, Department of Health and Human Services.

(1) Definitions

- a. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 CFR Section 164.501.
- b. "Data Aggregation" shall have the same meaning as the term "data aggregation" in 45 CFR Section 164.501.
- c. "Health Care Operations" shall have the same meaning as the term "health care operations" in 45 CFR Section 164.501.
- d. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.
- e. "Individual" shall have the same meaning as the term "individual" in 45 CFR Section 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.501(g).
- f. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.
- g. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR Section 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- h. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR Section 164.501.
- i. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- j. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164, Subpart C, and amendments thereto.
- k. Other Definitions - All terms not otherwise defined herein shall have the meaning established under 45 C.F.R. Parts 160, 162 and 164, as amended from time to time.

(2) Use and Disclosure of Protected Health Information

a. Business Associate shall not use, disclose, maintain or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under Exhibit A of the Agreement. Further, the Business Associate shall not, and shall ensure that its directors, officers, employees and agents, do not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.

b. Business Associate may use or disclose PHI:

- (i) for the proper management and administration of the Business Associate;
- (ii) as required by law, pursuant to the terms set forth in paragraph d. below; or
- (iii) for data aggregation purposes for the health care operations of Covered Entity.

c. To the extent Business Associate is permitted under the Agreement to disclose PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from the third party that such PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and (ii) an agreement from such third party to immediately notify Business Associate of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.

d. The Business Associate shall not, unless such disclosure is reasonably necessary to provide services under Exhibit A of the Agreement, disclose any PHI in response to a request for disclosure on the basis that it is required by law, without first notifying Covered Entity so that Covered Entity has an opportunity to object to the disclosure and to seek appropriate relief. If Covered Entity objects to such disclosure, the Business Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all remedies.

e. If the Covered Entity notifies the Business Associate that Covered Entity has agreed to be bound by additional restrictions on the uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Business Associate shall be bound by such additional restrictions and shall not disclose PHI in violation of such additional restrictions and shall abide by any additional security safeguards.

(3) Obligations and Activities of Business Associate

a. Business Associate shall report to the designated Privacy Officer of Covered Entity, in writing, any use or disclosure of PHI in violation of the Agreement, including any security incident involving Covered Entity data, of which it becomes aware, within two (2) business days of becoming aware of such unauthorized use or disclosure or security incident.

b. Business Associate shall use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of protected health information, in electronic or any other form, that it creates, receives, maintains or transmits under this Agreement, in accordance with the Privacy and Security Rules, to prevent the use or disclosure of PHI other than as permitted by the Agreement.

c. Business Associate shall make available all of its internal policies and procedures, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity to the Secretary for purposes of determining Covered Entity's compliance with HIPAA and the Privacy and Security Rule.

d. Business Associate shall require all of its business associates that receive, use or have access to PHI under the Agreement, to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein, including the duty to return or destroy the PHI as provided under Section (3)b and (3)k herein. The Covered Entity shall be considered a direct third party beneficiary of the Contractor's business associate agreements with Contractor's intended business associates, who will be

receiving PHI pursuant to this Agreement, with rights of enforcement and indemnification from such business associates who shall be governed by standard provision #13 of this Agreement for the purpose of use and disclosure of protected health information.

e. Within five (5) business days of receipt of a written request from Covered Entity, Business Associate shall make available during normal business hours at its offices all records, books, agreements, policies and procedures relating to the use and disclosure of PHI to the Covered Entity, for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of the Agreement.

f. Within ten (10) business days of receiving a written request from Covered Entity, Business Associate shall provide access to PHI in a Designated Record Set to the Covered Entity, or as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR Section 164.524.

g. Within ten (10) business days of receiving a written request from Covered Entity for an amendment of PHI or a record about an individual contained in a Designated Record Set, the Business Associate shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under 45 CFR Section 164.526.

h. Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.

i. Within ten (10) business days of receiving a written request from Covered Entity for a request for an accounting of disclosures of PHI, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill its obligations to provide an accounting of disclosures with respect to PHI in accordance with 45 CFR Section 164.528.

j. In the event any individual requests access to, amendment of, or accounting of PHI directly from the Business Associate, the Business Associate shall within two (2) business days forward such request to Covered Entity. Covered Entity shall have the responsibility of responding to forwarded requests. However, if forwarding the individual's request to Covered Entity would cause Covered Entity or the Business Associate to violate HIPAA and the Privacy and Security Rule, the Business Associate shall instead respond to the individual's request as required by such law and notify Covered Entity of such response as soon as practicable.

k. Within ten (10) business days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from, or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-up tapes of such PHI. If return or destruction is not feasible, or the disposition of the PHI has been otherwise agreed to in the Agreement, Business Associate shall continue to extend the protections of the Agreement, to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. If Covered Entity, in its sole discretion, requires that the Business Associate destroy any or all PHI, the Business Associate shall certify to Covered Entity that the PHI has been destroyed.

(4) Obligations of Covered Entity

a. Covered Entity shall notify Business Associate of any changes or limitation(s) in its Notice of Privacy Practices provided to individuals in accordance with 45 CFR Section 164.520, to the extent that such change or limitation may affect Business Associate's use or disclosure of PHI.

b. Covered Entity shall promptly notify Business Associate of any changes in, or revocation of permission provided to Covered Entity by individuals whose PHI may be used or disclosed by Business Associate under this Agreement, pursuant to 45 CFR Section 164.506 or 45 CFR Section 164.508.

c. Covered entity shall promptly notify Business Associate of any restrictions on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(5) Termination for Cause

In addition to standard provision #10 of this Agreement the Covered Entity may immediately terminate the Agreement upon Covered Entity's knowledge of a breach by Business Associate of the Business Associate Agreement set forth herein as Exhibit I. The Covered Entity may either immediately terminate the Agreement or provide an opportunity for Business Associate to cure the alleged breach within a timeframe specified by Covered Entity. If Covered Entity determines that neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(6) Miscellaneous

a. Definitions and Regulatory References. All terms used, but not otherwise defined herein, shall have the same meaning as those terms in the Privacy and Security Rule, as amended from time to time. A reference in the Agreement, as amended to include this Exhibit I, to a Section in the Privacy and Security Rule means the Section as in effect or as amended.

b. Amendment. Covered Entity and Business Associate agree to take such action as is necessary to amend the Agreement, from time to time as is necessary for Covered Entity to comply with the changes in the requirements of HIPAA, the Privacy and Security Rule, and applicable federal and state law.

c. Data Ownership. The Business Associate acknowledges that it has no ownership rights with respect to the PHI provided by or created on behalf of Covered Entity.

d. Interpretation. The parties agree that any ambiguity in the Agreement shall be resolved to permit Covered Entity to comply with HIPAA and the Privacy and Security Rule.

e. Segregation. If any term or condition of this Exhibit I or the application thereof to any person(s) or circumstance is held invalid, such invalidity shall not affect other terms or conditions which can be given effect without the invalid term or condition; to this end the terms and conditions of this Exhibit I are declared severable.

f. Survival. Provisions in this Exhibit I regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Agreement in section 3 k, the defense and indemnification provisions of section 3.d and standard contract provision #13, shall survive the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT BUSINESS ASSOCIATE AGREEMENT.

NH Department of Corrections
State of New Hampshire Agency Name

William L. Wren
Signature of Authorized Representative

William L. Wren
Authorized DOC Representative Name

Commissioner
Authorized DOC Representative Title

4/11/14
Date

Bio-Medical Applications of New Hampshire, Inc.
Contractor Name

Kathryn M. Dickey
Contractor Representative Signature

Kathryn M. Dickey
Authorized Contractor Representative Name

Regional Vice President
Authorized Contractor Representative Title

3/27/2014
Date

NH DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE RULES

- COR 307 Items Considered Contraband. Contraband shall consist of:
- a) Any substance or item whose possession is unlawful for the person or the general public possessing it including but not limited to:
 - (1) narcotics
 - (2) controlled drugs or
 - (3) automatic or concealed weapons possessed by those not licensed to have them.
 - b) Any firearm, simulated firearm, or device designed to propel or guide a projectile against a person, animal or target.
 - c) Any bullets, cartridges, projectiles or similar items designed to be projected against a person, animal or target.
 - d) Any explosive device, bomb, grenade, dynamite or dynamite cap or detonating device including primers, primer cord, explosive powder or similar items or simulations of these items.
 - e) Any drug item, whether medically prescribed or not, in excess of a one day supply or in such quantities that a person would suffer intoxication or illness if the entire available quantity were consumed alone or in combination with other available substances.
 - f) Any intoxicating beverage.
 - g) Sums of money or negotiable instruments in excess of \$100.00.
 - h) Lock-picking kits or tools or instruments on picking locks, making keys or obtaining surreptitious entry or exit
 - i) The following types of items in the possession of an individual who is not in a vehicle, (but shall not be contraband if stored in a secured vehicle):
 - j) Knives and knife-like weapons, clubs and club-like weapons,
 - (1) tobacco, alcohol, drugs including prescription drugs unless prior approval is granted in writing by the facility Warden/designee, or Director/designee,
 - (2) maps of the prison vicinity or sketches or drawings or pictorial representations of the facilities, its grounds or its vicinity,
 - (3) pornography or pictures of visitors or prospective visitors undressed,
 - (4) cell phones and radios capable of monitoring or transmitting on the police band in the possession of other than law enforcement officials,
 - (5) identification documents, licenses and credentials not in the possession of the person to whom properly issued,
 - (6) ropes, saws, grappling hooks, fishing line, masks, artificial beards or mustaches, cutting wheels or string rope or line impregnated with cutting material or similar items to facilitate escapes,
 - (7) balloons, condoms, false-bottomed containers or other containers which could facilitate transfer of contraband.

COR 307.02 Contraband on prison grounds is prohibited. The possession, transport, introduction, use, sale or storage of contraband on the prison grounds without prior approval of the commissioner of corrections or his designee is prohibited under the provision of RSA 622:24 and RSA 622:25.

COR 307.03 Searches and Inspections Authorized.

- a) Any person or property on state prison grounds shall be subject to search to discover contraband...

Travel onto prison grounds shall constitute implied consent to search for contraband. In such cases where implied consent exists, the visitor will be given a choice of either consenting to the search or immediately leaving the prison grounds. Nothing in this rule however, prevents non-consensual searches in situations where probable cause exists to believe that the visitor is or had attempted to introduce contraband into the prison pursuant to the law of New Hampshire concerning search, seizure and arrest.

- b) All motor vehicles parked on prison grounds shall be locked and have the keys removed. Custodial personnel shall check to insure that vehicles are locked and shall visually inspect the plain-view interior of the vehicles. Vehicles discovered unlocked shall be searched to insure that no contraband is present. Contraband discovered during searches shall be confiscated for evidence, as shall contraband discovered during plain-view inspections.

- c) All persons entering the facilities to visit with residents or staff, or to perform services at the facilities or to tour the facilities shall be subject to having their persons checked. All items and clothing carried into the institution shall be searched for contraband.

<u>KATHLEEN M DICKY</u> Name	<u>Kathleen M Dickey</u> Signature	<u>3/27/14</u> Date
<u>Elizabeth G Perry</u> Witness Name	<u>Elizabeth G. Perry</u> Signature	<u>3/27/14</u> Date

NH DEPARTMENT OF CORRECTIONS
RULES OF CONDUCT FOR PERSONS PROVIDING CONTRACT SERVICES

1. Engaging in any of the following activities with persons under departmental control is strictly prohibited:
 - a. Any contact, including correspondence, other than in the performance of your services for which you have been contracted.
 - b. Giving or selling of anything
 - c. Accepting or buying anything
2. Any person providing contract services who is found to be under the influence of intoxicants or drugs will be removed from facility grounds and barred from future entry to the NH Department of Corrections property.
3. Possession of any item considered to be contraband as defined in the New Hampshire code of Administrative Rules, COR 307 is a violation of the rules and the laws of the State of New Hampshire and may result in legal action under RSA 622:24 or other statutes.
4. In the event of any emergency situation, i.e., fire, disturbance, etc., you will follow the instructions of the escorting staff or report immediately to the closest available staff.
5. All rules, regulations and policies of the NH Department of Corrections are designed for the safety of the staff, visitors and residents, the security of the facility and an orderly flow of necessary movement and activities. If unsure of any policy and procedure, ask for immediate assistance from a staff member.
6. Harassment and discrimination directed toward anyone based on sex, race, creed, color, national origin or age are illegal under federal and state laws and will not be tolerated in the work place. Maintenance of a discriminatory work environment is also prohibited. Everyone has a duty to observe the law and will be subject to removal for failing to do so.
7. During the performance of your services you are responsible to the facility administrator, and by your signature below, agree to abide by all the rules, regulations, policies and procedures of the NH Department of Corrections and the State of New Hampshire.
8. In lieu of Contracted staff participating in the Corrections Academy, the Vendor through the Commissioner or his designees will establish a training/orientation facilitated by the Vendor to supplement this requirement and appropriate orient Vendor staff to the rules, regulations, polices and procedures of the Department of Corrections and the State of New Hampshire.

<u>KATHLEEN M DICKEY</u> Name	<u>KATHLEEN M DICKEY</u> Signature	<u>3/27/14</u> Date
<u>ELIZABETH G PERRY</u> Witness Name	<u>ELIZABETH G PERRY</u> Signature	<u>3/27/14</u> Date

NH DEPARTMENT OF CORRECTIONS
CONFIDENTIALITY OF INFORMATION AGREEMENT

I understand and agree that all employed by the organization/agency I represent must abide by all rules, regulations and laws of the State of New Hampshire and the NH Department of Corrections that relate to the confidentiality of records and all other privileged information.

I further agree that all employed by or subcontracted through the organization I represent are not to discuss any confidential or privileged information with family, friends or any persons not professionally involved with the NH Department of Corrections. If inmates or residents of the NH Department of Corrections, or, anyone outside of the NH Department of Corrections' employ approaches any of the our organization's employees or subcontractors and requests information, the staff/employees of the organization I represent will immediately contact their supervisor, notify the NH Department of Corrections, and file an incident report or statement report with the appropriate NH Department of Corrections representative.

Any violation of the above may result in immediate termination of any and all contractual obligations.

KATHLEEN M DICKEY
Name

Kathleen M Dickey 3/27/14
Signature Date

Elizabeth G. Perry
Witness Name

Elizabeth G. Perry 3/27/14
Signature Date



STATE OF NEW HAMPSHIRE
 DEPARTMENT OF CORRECTIONS
 DIVISION OF ADMINISTRATION

William L. Wrenn
 Commissioner

Bob Mullen
 Director

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 CONCORD, NH 03302-1806
 603-271-5610 FAX: 603-271-5639
 TDD Access: 1-800-735-2964

PRISON RAPE ELIMINATION ACT
 ACKNOWLEDGEMENT FORM

The Prison Rape Elimination Act (PREA) of 2003 (with Final Rule August 2012) is a federal law established to address the elimination and prevention of sexual assault and sexual harassment within correctional systems and detention facilities. This Act applies to all correctional facilities, including prisons, jails, juvenile facilities and community corrections residential facilities. PREA incidents involve the following conduct:

- Resident-on-resident sexual assault
- Resident-on-resident abusive sexual contact
- Staff sexual misconduct
- Staff sexual harassment of a resident

The act aimed to curb prison rape through a “zero-tolerance” policy, as well as through research and information gathering. The NH Department of Corrections has zero tolerance relating to the sexual assault/rape of offenders and recognizes these offenders as crime victims. Due to this recognition and adherence to the federal Prison Rape Elimination Act (PREA) of 2003, the NH Department of Corrections extends the “zero tolerance” to the following:

- Contractor/subcontractor misconduct
- Contractor/subcontractor harassment of a resident

As a Contractor and/or Subcontractor of the NH Department of Corrections, I acknowledge that I have been provided information on the Prison Rape Elimination Act of 2003 and have been informed that as a Contractor and/or Subcontractor of the NH Department of Corrections, sexual conduct between Contractor and/or Subcontractor and offenders is prohibited. Sexual harassment or sexual misconduct involving an offender can be a violation of NH RSA 632-A:2, 632-A:3 and 632-A:4, Chapter 632-A: Sexual Assault and Related Offenses, and result in criminal prosecution.

As a Contractor and/or Subcontractor of the NH Department of Corrections, I understand that I shall inform all employees of the Contractor and/or Subcontractor to adhere to all policies concerning PREA, RSA 632-A:2, RSA 632-A:3, RSA 632-A:4 and departmental policies including NHDOC PPD 5.19 - PREA; NHDOC Administrative Rules, Conduct and Confidentiality Information regarding my conduct, reporting of incidents and treatment of those under the supervision of the NH Department of Corrections. (Ref. RSA Chapter 632-A, NHDOC PPD 5.19 and Administrative Rules, Rules of Conduct for Persons Providing Contract Services, Confidentiality of Information Agreement).

Name (print): Kathryn M. Dickey, Regional VP
 (Name of Contract Signatory)

Date: 3/27/14

Signature: *Kathryn M Dickey*
 (Signature of Contract Signatory)