

65 RB



Virginia M. Barry, Ph.D.  
 Commissioner of Education  
 Tel: (603) 271-3144

Paul K. Leather  
 Deputy Commissioner  
 Tel: (603) 271-3801

**STATE OF NEW HAMPSHIRE  
 DEPARTMENT OF EDUCATION  
 DEPT. OF EDUCATION CITIZENS SERVICES 1-800-339-9900  
 21 South Fruit Street, Suite 20  
 Concord, NH 03301  
 603-271-3471 TTY/V**

December 16, 2015

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

**REQUESTED ACTION**

Authorize the Department of Education, Division of Career Technology and Adult Learning to amend a **sole source** contract with various medical consultants by adding the vendors listed below, originally approved by Governor and Council on June 24, 2015 (Item #156), for the purpose of conducting disability determination medical decisions. This amendment increases the price limitation by \$439,560.00 from \$1,693,124.00 to \$2,132,684, effective upon Governor and Council approval through June 30, 2017. 100% Federal Funds.

The individuals to be contracted with are as follows:

		<u>FY2016</u>	<u>FY2017</u>
David Eldredge, MD	Vendor Code: 269335	\$56,100	\$88,860
Robert Kiefner, MD	Vendor Code: 201595	\$56,100	\$88,860
James Trice, MD	Vendor Code: 218516	\$59,160	\$90,480

Funding is available in the account titled Disability Determination Services for FY16 and FY17 as follows:

FY 16	06-56-56-565510-40400000-046-500462	Consultants	\$171,360.00
FY 17	06-56-56-565510-40400000-046-500462	Consultants	\$268,200.00

**EXPLANATION**

These requests are **sole source** because the vendors, identified above, possess the unique expertise required to complete disability determination medical decisions in an accurate and timely manner as mandated in Federal Regulation 20 CFR 404.1620.

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
November 18, 2015  
Page 2 of 2

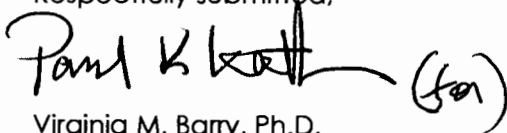
The Disability Determination Service (DDS), which serves under the Division of Career Technology and Adult Learning at the Department of Education, uses medical and psychological consultants to review and advise staff in the determination of eligibility for Social Security disability benefits, for the residents of New Hampshire. Per Federal Regulation 20 CFR 404.1620: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly." The chief medical and chief mental impairment consultants, in addition to these duties, resolve difficult medical issues and provide training. The consultants must maintain current licensure in the state.

The DDS is in need of 3 additional medical consultants to replace 3 retired/relocated consultants, who were approved through June 30, 2017. DDS consultants are needed to evaluate medical evidence and to determine its adequacy for making disability decisions. The consultant then prepares an assessment of the individual's functional limitations imposed by the impairment(s). The Consultants also provide consultation in the development of internal forms, reviewing the quality of examination reports from independent vendors. At this time, due to the lack of physical medical consultants, the DDS has been sending claims electronically to Boston and Washington DC for assessments/form completion. The DDS is also anticipating an increased workload of over 800 additional Continuing Disability Review claims this Federal Fiscal Year. The consultants do not perform examinations and never meet the disability applicant, so there is no doctor/patient relationship.

Permission is requested to accept the fee schedule proposed with longevity adjustments as shown on Exhibit B.

In the event that Federal Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul K. Barry" with a stylized flourish at the end. To the right of the signature is the word "(for)" in parentheses.

Virginia M. Barry, Ph.D.  
Commissioner of Education

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

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name NH Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name David Eldredge, MD		1.4 Contractor Address 65 Middle Rd., Brentwood, NH 03833	
1.5 Contractor Phone Number (603) 772-1319	1.6 Account Number 565510-4040-046-500462	1.7 Completion Date June 30, 2017	1.8 Price Limitation \$144,960.00
1.9 Contracting Officer for State Agency Paul K. Leather, Deputy Commissioner of Education		1.10 State Agency Telephone Number (603) 271-7301	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory DAVID L. B. ELDRIDGE MD	
1.13 Acknowledgement: State of <del>New Hampshire</del> of <del>Merrimack</del> On <u>12/1/15</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 [Seal] 			
1.13.2 Name and Title of Notary or Justice of the Peace			
1.14 State Agency Signature  Date: <u>12-2-15</u>		1.15 Name and Title of State Agency Signatory	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sana J. Hillyghan</u> Director, On: <u>12-2-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: <u>Eu Melnyk</u> On: <u>12/2/15</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**  
3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

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

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

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

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**  
7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this

Contractor Initials DE  
Date 12/1/15

Agreement. This provision shall survive termination of this Agreement.

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

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

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 14. INSURANCE.

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

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

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

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

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

**15. WORKERS' COMPENSATION.**

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

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

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

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

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

such approval is required under the circumstances pursuant to State law, rule or policy.

**19. CONSTRUCTION OF AGREEMENT AND TERMS.**

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

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

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

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

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

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

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials DE  
Date 12/1/15

## Exhibit A - Page 2

- Attend required training.
- Conduct medical training of adjudicative personnel to ensure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.



## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month through the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials DE  
Date 12/1/15

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$144,960.00 for the biennium - \$56,100.00 for FY'16 and \$88,860.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. If there is any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is on an "as needed" basis.

Contractor Initials DE  
Date 12/1/15

## Exhibit C - Page 2

### General Provisions:

#### Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

#### Insurance

Insurance as referenced in Paragraph #14 is waived. This is an amendment to a contract previously approved by Governor and Council on June 4, 2015 for physicians. The medical consultants work collaboratively with many staff in the overall processing of disability claims for Social Security. Department of Education Support Staff electronically request and review medical records. They may also request consultative evaluations, with guidance from the medical consultants. Once all of the medical evidence is in, the case processing staff analyzes the information. The medical consultants then further analyze the claims, complete assessment forms and sign off on them. However, the medical consultants do not provide any type of treatment; they do not see patients and they do not make eligibility determinations. The role of the medical consultants is limited to reviewing the records and making recommendations to Department of Education staff.

The medical consultants play a collaborative role in the overall processing of a disability claim but are not responsible for the ultimate determination. Therefore, insurance is waived due to the minimal risk of liability.

Contractor Initials DE  
Date 12/1/15

### Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without notice.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Contractor Initials DE  
Date 12/1/15

**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, David Eldredge, MD, as a licensed medical physician, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
1<sup>ST</sup> day of DECEMBER, 2015.

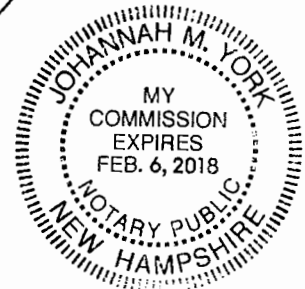
David L B Eldredge, MD  
David Eldredge, MD - Sole Proprietor

State of: **New Hampshire**

County of: **Merrimack** On 12/1, 20 15, before the undersigned officer personally appeared the person identified in the foregoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.

Johanna M. York  
Notary Public/Justice of the Peace



## **CURRICULUM VITAE**

David L. B. Eldredge, M.D., F.A.G.O.G.

### **Professional Experience:**

Dr. Eldredge's education and experiential background in Medicine qualifies him to provide medical consultation service related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

Mountain Park Health Center  
Obstetrician-Gynecologist M.D.

Dartmouth Hitchcock-Manchester  
Obstetrician-Gynecologist and Urgent Care Clinic M.D.

Seacoast Ob-GYN, PA  
Obstetrician-Gynecologist (owner of private practice)

Ob-Gyn Professional Assoc.  
Obstetrician-Gynecologist

Mercy Hospital  
E.R. Physician

### **Education:**

A.B. - Dartmouth College  
M.D. - University of Cincinnati Medical School  
Residency in Internal Medicine - Harvard Medical School  
Residency in Internal Medicine - Wake Forest University  
Residency in Obstetrics & Gynecology - Maine Medical Center

### **Certification & Licensure:**

New Hampshire License #6210

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

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name NH Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name Robert Kiefner, MD		1.4 Contractor Address 35 Ridge Rd., Concord, NH 03301	
1.5 Contractor Phone Number (603) 224-9293	1.6 Account Number 565510-4040-046-500462	1.7 Completion Date June 30, 2017	1.8 Price Limitation \$144,960.00
1.9 Contracting Officer for State Agency Paul K. Leather, Deputy Commissioner of Education		1.10 State Agency Telephone Number (603) 271-7301	
1.11 Contractor Signature  <i>Robert S. Kiefner, MD</i>		1.12 Name and Title of Contractor Signatory  Robert S. Kiefner, MD	
1.13 Acknowledgement: State of <del>New Hampshire</del> County of <del>Merrimack</del> On <u>12/1/15</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 <del>Justice of the Peace</del> <div style="display: flex; justify-content: space-between; align-items: center;"> <span>[Seal]</span> </div>			
1.13.2 Name and Title of Notary of Justice of the Peace <div style="text-align: right;"> </div>			
1.14 State Agency Signature <i>Paul K. Leather</i> Date: <u>12-2-15</u>		1.15 Name and Title of State Agency Signatory	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <i>Sara J. Cunningham</i> Director, On: <u>12-2-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: <i>Jim Melnyk</i> On: <u>12/2/15</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**  
3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

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

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

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

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

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

Contractor Initials BE  
Date 12/1/15



Agreement. This provision shall survive termination of this Agreement.

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

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

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**15. WORKERS' COMPENSATION.**

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

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

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

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

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

such approval is required under the circumstances pursuant to State law, rule or policy.

**19. CONSTRUCTION OF AGREEMENT AND TERMS.**

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

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

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

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

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

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

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials KL  
Date 12/1/17

## Exhibit A - Page 2

- Attend required training.
- Conduct medical training of adjudicative personnel to ensure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials BK  
Date 12/1/15

## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month through the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials SK  
Date 12/1/15

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$144,960.00 for the biennium - \$56,100.00 for FY'16 and \$88,860.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. If there is any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is on an "as needed" basis.

Contractor Initials SK  
Date 12/1/15

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in Paragraph #14 is waived. This is an amendment to a contract previously approved by Governor and Council on June 4, 2015 for physicians. The medical consultants work collaboratively with many staff in the overall processing of disability claims for Social Security. Department of Education Support Staff electronically request and review medical records. They may also request consultative evaluations, with guidance from the medical consultants. Once all of the medical evidence is in, the case processing staff analyzes the information. The medical consultants then further analyze the claims, complete assessment forms and sign off on them. However, the medical consultants do not provide any type of treatment; they do not see patients and they do not make eligibility determinations. The role of the medical consultants is limited to reviewing the records and making recommendations to Department of Education staff.

The medical consultants play a collaborative role in the overall processing of a disability claim but are not responsible for the ultimate determination. Therefore, insurance is waived due to the minimal risk of liability.

Contractor Initials BL  
Date 12/1/15

### Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without notice.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Contractor Initials BL  
Date 12/1/13



**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, Robert S. Kiefner, MD, as a licensed medical physician, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
1<sup>st</sup> day of December, 2015.

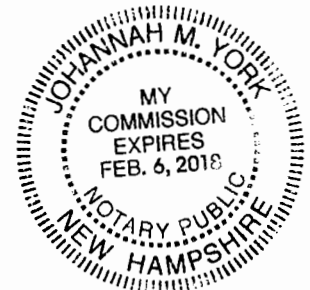
Robert S. Kiefner, MD  
Robert S. Kiefner, MD - Sole Proprietor

State of: **New Hampshire**

County of: **Merrimack** On 12/1, 2015, before the undersigned officer personally appeared the person identified in the foregoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.

Johanna M. York  
Notary Public/Judge of the Peace



## **CURRICULUM VITAE**

Robert S. Kiefner, MD  
35 Ridge Road  
Concord, NH 03301

### **Professional Experience:**

Dr. Kiefner's education and experiential background in Family Practice qualifies him to provide medical consultation services related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

New Hampshire Hospital  
Consulting Physician

Concord Hospital Medical Group  
Family Physician

Hitchcock Clinic

### **Education:**

Certificate in Clinical Acupuncture, Harvard Medical School  
Fellowship, National Institute Mental Health  
Preceptorship Anesthesiology, Sheffield, UK  
NYU Graduate School  
Vassar College

### **Certification & Licensure:**

New Hampshire License #6785

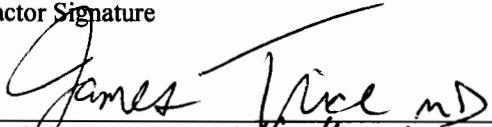
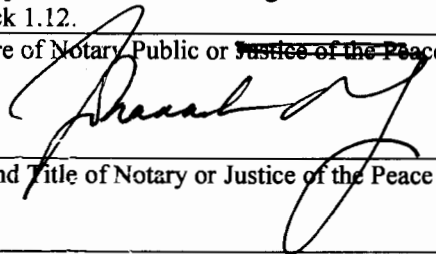
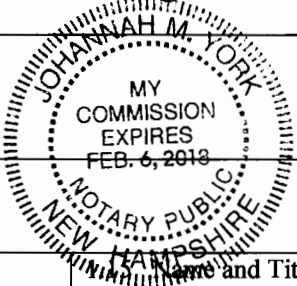
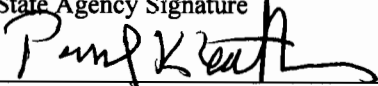
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name NH Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name James Trice, MD		1.4 Contractor Address 14 Ridgewood Lane, Concord, NH 03301	
1.5 Contractor Phone Number (603) 738-6085	1.6 Account Number 565510-4040-046-500462	1.7 Completion Date June 30, 2017	1.8 Price Limitation \$149,640.00
1.9 Contracting Officer for State Agency Paul K. Leather, Deputy Commissioner of Education		1.10 State Agency Telephone Number (603) 271-7301	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory JAMES TRICE MD	
1.13 Acknowledgement: State of <u>New Hampshire</u> County of <u>Merrimack</u> On <u>12/1/15</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  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace 			
1.14 State Agency Signature 		Name and Title of State Agency Signatory Date: <u>12-2-15</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sara J. Sullivan</u> Director, On: <u>12-2-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: <u>Eric McIntyre</u> On: <u>12/2/15</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

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

**5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this

Agreement. This provision shall survive termination of this Agreement.

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

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

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**15. WORKERS' COMPENSATION.**

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

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

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

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

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

such approval is required under the circumstances pursuant to State law, rule or policy.

**19. CONSTRUCTION OF AGREEMENT AND TERMS.**

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

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

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

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

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

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

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials

Date

AT  
12/1/2015

## Exhibit A - Page 2

- Attend required training.
- Conduct medical training of adjudicative personnel to ensure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials GT  
Date 12/1/2015



## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month through the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials

Date

JT  
12/17/2015

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$149,640.00 for the biennium - \$59,160.00 for FY'16 and \$90,480.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. If there is any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is on an "as needed" basis.

Contractor Initials

Date

GT  
12/1/2015

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in Paragraph #14 is waived. This is an amendment to a contract previously approved by Governor and Council on June 4, 2015 for physicians. The medical consultants work collaboratively with many staff in the overall processing of disability claims for Social Security. Department of Education Support Staff electronically request and review medical records. They may also request consultative evaluations, with guidance from the medical consultants. Once all of the medical evidence is in, the case processing staff analyzes the information. The medical consultants then further analyze the claims, complete assessment forms and sign off on them. However, the medical consultants do not provide any type of treatment; they do not see patients and they do not make eligibility determinations. The role of the medical consultants is limited to reviewing the records and making recommendations to Department of Education staff.

The medical consultants play a collaborative role in the overall processing of a disability claim but are not responsible for the ultimate determination. Therefore, insurance is waived due to the minimal risk of liability.

### Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without notice.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Contractor Initials

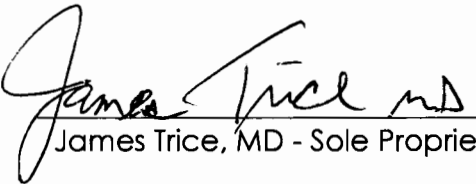
Date

*JS*  
*12/1/2015*

**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, James M. Trice, as a licensed medical physician, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
1 day of December, 2015.

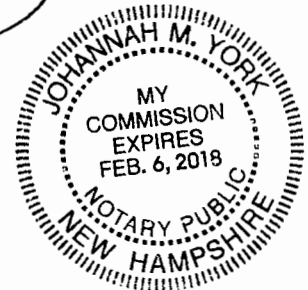
  
James Trice, MD - Sole Proprietor

State of: **New Hampshire**

County of: **Merrimack** On 12/1, 20 15, before the undersigned officer personally appeared the person identified in the foregoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.

  
Notary Public/Justice of the Peace



## **CURRICULUM VITAE**

James M. Trice, MD

### **Professional Experience:**

Dr. Trice's education and experiential background in Internal Medicine qualifies him to provide medical consultation service related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

University of Vermont Medical Center  
Attending Physician

State of NH, Disability Determination Service  
Medical Consultant

Ronald Reagan, UCLA Medical Center  
Attending Physician

Santa Monica UCLA Medical Center  
Attending Physician

Concord Hospital  
Attending Physician

### **Education:**

Wagner College  
Richmond College, City University of New York  
School of Medicine, University of Rome, Italy  
George Washington University, School of Medicine, MD  
Internship, Internal Medicine, George Washington University  
Residency, Internal Medicine, George Washington University  
Fellowship, Rheumatology, University of Tennessee  
International Society of Clinical Densitometry, Cert., Densitometrist  
American Board of Internal Medicine, Rheumatology, (Diplomat)  
American Board of Internal Medicine (Diplomat)

### **Certification & Licensure:**

New Hampshire License #6799

Virginia M. Barry, Ph.D.  
Commissioner of Education  
Tel: (603) 271-3144



156 mac  
Paul K. Leather  
Deputy Commissioner  
Tel: (603) 271-3801

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
DEPT. OF EDUCATION CITIZENS SERVICES 1-800-339-9900  
21 South Fruit Street, Suite 20  
Concord, NH 03301  
603-271-3471 TTY/V

June 4, 2015

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

**Requested Action**

Authorize the Department of Education to enter into **sole source** agreements with the vendors listed below to conduct disability determination medical decisions. This contract will be effective from July 1, 2015 through June 30, 2017 in an amount not to exceed \$1,693,124.00 pending legislative approval of the next biennial budget. **100% Federal funds.**

The individuals to be contracted with are as follows:

		<u>FY 2016</u>	<u>FY 2017</u>
Hugh Fairley, MD	VC 154604	\$ 78,939	\$ 78,939
Jonathan Jaffe, MD	VC 168181	126,000	126,000
William Jamieson, Ph.D.	VC 163997	25,830	25,830
Nicholas Kalfas, Ph.D.	VC 150166	74,865	74,865
Laura Landerman, Ph.D.	VC 203544	91,500	91,500
John MacEachran, MD	VC 206950	103,500	103,500
Edward Martin, Ph.D.	VC 152623	43,344	43,344
Louis Rosenthal, MD	VC 160932	50,020	50,020
Patricia Salt, Ph.D.	VC 159558	45,675	45,675
Michael Schneider, Psy.D.	VC 163027	94,500	94,500
Natacha Sochat, MD MFA	VC 250055	72,384	72,384
Craig Stenslie, Ph.D.	VC 170136	40,005	40,005

Funding is available in the account titled Disability Determination Services for FY 16/17 as follows:

FY16	06-56-56-565510-40400000-046-500462	\$846,562.00
FY17	06-56-56-565510-40400000-046-500462	\$846,562.00

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
June 4, 2015  
Page Two

### Explanation

These requests are **sole source** because the vendors, identified above, have been providing these services for the Department for several years and possess the unique expertise required to complete disability determination medical decisions in an accurate and timely manner as mandated in Federal Regulation 20 CFR 404.1620. Training new vendors to perform these services could take up to nine (9) months which could cause significant delays in determining an individual's eligibility for disability benefits.

The Division of Career Technology and Adult Learning uses medical and psychological consultants to review and advise staff in the determination of eligibility for clients in the Vocational Rehabilitation program and to assist in the determination of eligibility for Social Security disability benefits. Per Federal Regulation 20 CFR 404.1620: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly." The chief medical and chief mental impairment consultants, in addition to these duties, resolve difficult medical issues and provide training. The consultants must maintain current licensure in the state.

The Division is in need of consultants to evaluate medical evidence and to determine its adequacy for making disability decisions. The consultant then prepares an assessment of the individual's functional limitations imposed by the impairment(s). They also provide consultation in the development of internal forms, reviewing the quality of examination reports of independent vendors who provide reports to the Division concerning clients, and provide consultation to the Division in service delivery. The consultants do not perform examinations or ever meet the disability applicant.

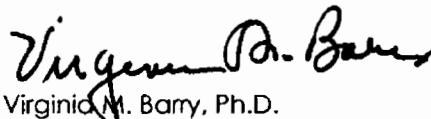
The Disability Determination Services (DDS) serves under the Division of Career Technology and Adult Learning at the Department of Education to ensure opportunity to have educational preparation and opportunity for employment rather residing solely in a beneficiary program within the Department of Health and Human Services. Forty-two percent of Vocational Rehabilitation clients are social security beneficiaries preparing for employment and potentially decreasing reliance on public benefits. Vocational Rehabilitation serves people with disabilities by providing services that lead to gaining and retaining employment.

Transition age youth with disabilities make up a large proportion of our client population. Students are referred to Vocational Rehabilitation while in high school and may receive post-secondary education, vocational training, career counseling as well as employment and job placement services ultimately leading to employment. Being situated in the Department of Education along with Disability Determination Service fosters a close working relationship with programs that best support the populations that we serve.

Permission is requested to accept the fee schedule proposed with longevity adjustments as shown on Exhibit B.

In the event that Federal funds no longer become available, General funds will not be requested to support this program.

Respectfully submitted,



Virginia M. Barry, Ph.D.  
Commissioner of Education



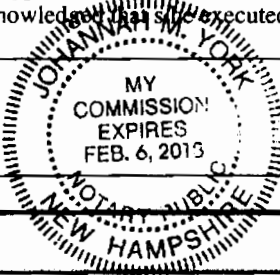


Subject: Medical Consultant **FORM NUMBER P-37 ( version 1/09)**

**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 Education, DDS</u>		1.2 State Agency Address <u>21 S. Fruit St., Suite 30, Concord, NH 03301</u>	
1.3 Contractor Name <u>Hugh Fairley, MD</u>		1.4 Contractor Address <u>182 Mansion Rd., Dunbarton, NH 03046</u>	
1.5 Contractor Phone Number <u>(603) 224-9401</u>	1.6 Account Number <u>565510-4040-046-500462</u>	1.7 Completion Date <u>June 30, 2017</u>	1.8 Price Limitation <u>\$157,878.00</u>
1.9 Contracting Officer for State Agency <u>Paul K. Leather, Deputy Commissioner of Education</u>		1.10 State Agency Telephone Number <u>603-271-7301</u>	
1.11 Contractor Signature <u>Hugh F. Fairley</u>		1.12 Name and Title of Contractor Signatory <u>HUGH F. FAIRLEY.</u>	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>3/12/15</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 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>[Signature]</u>			
1.13.2 Name and Title of Notary or Justice of the Peace <u>[Signature]</u>			
1.14 State Agency Signature <u>Virginia M. Barry</u>		1.15 Name and Title of State Agency Signatory <u>Virginia M. Barry, PhD. Commissioner of Education</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sarah J. Sullivan</u> Director, On: <u>5-26-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <u>[Signature]</u> On: <u>6/3/15</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                       
Date 3/12/15

**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

Contractor Initials *CHH*  
Date 3-17-15

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.

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials

Date

JH  
3-12-15

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials

Date

AA  
3-12-15

## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials 

Date 3-12-15

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$157,878.00 for the biennium - \$78,939.00 for FY'16 and \$78,939.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.



**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials

JJJ

Date

3-12-15

STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY

I, Hugh Fairley, MD. as sole proprietor of my business, certify that I an authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
12<sup>th</sup> day of March, 2015.

Hugh F. Fairley  
Hugh Fairley, MD - Sole Proprietor

State of: New Hampshire

County of: Merrimack

On March 12, 2015, ~~2015~~, before the undersigned officer personally appeared the person identified in the forgoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the the foregoing certificate.

In witness whereof, I set my hand.

Johanna M. York  
Notary Public/Justice of the Peace



## CURRICULUM VITAE

Hugh Fairley, MD

### **Professional Experience:**

State of NH, Disability Determination Service

Medical Consultant

Specialty: Family Medicine

Dr. Fairley's education and experiential background in Family Medicine qualifies him to provide medical consultation related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

General Practice

Concord, NH

Specialty: Family Medicine

General Practice

Winnipeg, Canada

### **Education:**

University College, Dublin

M.D., M.B., B.S.

Residencies in surgery and in Anesthesiology

### **Certification & Licensure:**

New Hampshire License #4504

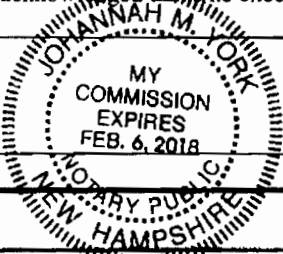
Subject: Medical Consultant FORM NUMBER P-37 ( version 1/09)

**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 Education, DDS</u>		1.2 State Agency Address <u>21 S. Fruit St., Suite 30, Concord, NH 03301</u>	
1.3 Contractor Name <u>Jonathan Jaffe, MD</u>		1.4 Contractor Address <u>33 Locust Hill Rd., Goffstown, NH 03045</u>	
1.5 Contractor Phone Number <u>(603) 497-8001</u>	1.6 Account Number <u>565510-4040-046-500462</u>	1.7 Completion Date <u>June 30, 2017</u>	1.8 Price Limitation <u>\$252,000.00</u>
1.9 Contracting Officer for State Agency <u>Paul K. Leather, Deputy Commissioner of Education</u>		1.10 State Agency Telephone Number <u>603-271-7301</u>	
1.11 Contractor Signature <u>[Signature]</u>		1.12 Name and Title of Contractor Signatory <u>Jonathan Jaffe MD</u>	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>3/13/15</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>[Signature]</u> [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace <u>[Signature]</u>			
1.14 State Agency Signature <u>Virginia M. Barry</u>		1.15 Name and Title of State Agency Signatory <u>Virginia M. Barry, PhD. Commissioner of Education</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sara J. Sullivan</u> Director, On: <u>5-26-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <u>[Signature]</u> On: <u>6/3/15</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   
Date 5/13/15

**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.**

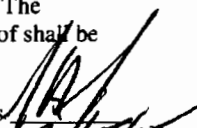
14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

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

Contractor Initials:   
Date: 3/12/15

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.

*[Handwritten Signature]*  
12/2/15

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials

Date





**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

*AM*  
*5/13/15*

## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00


*[Handwritten Signature]*  
*[Handwritten Date: 3/12/15]*

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$252,000.00 for the biennium - \$126,000.00 for FY'16 and \$126,000.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials  
Date

  
3/13/15

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

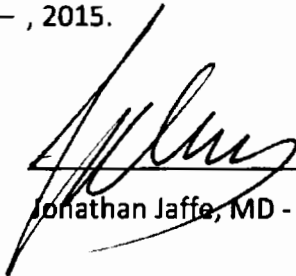
Contractor Initials \_\_\_\_\_  
Date \_\_\_\_\_

*APJ*  
*3/18/15*

**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, Jonathan Jaffe, MD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this 13 day of March, 2015.

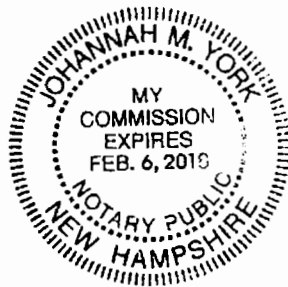
  
\_\_\_\_\_  
Jonathan Jaffe, MD - Sole Proprietor

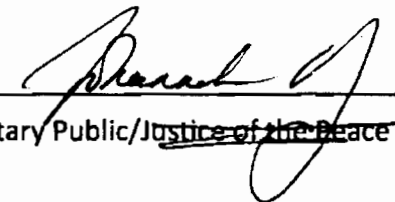
State of: New Hampshire

County of: Merrimack

On March 13, 2015, 2015, before the undersigned officer personally appeared the person identified in the forgoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the the foregoing certificate.

In witness whereof, I set my hand.



  
\_\_\_\_\_  
Notary Public/~~Justice of the Peace~~

## CURRICULUM VITAE

Jonathan H Jaffe MD

### **Professional Experience:**

State of NH, Disability Determination Service

Medical Consultant

Specialty: Family Practice

Dr. Jaffe's education and experiential background in Family Practice qualifies him to provide medical consultation related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

Rockingham County House of Corrections

Medical Director

Brentwood, NH

Strafford County House of Corrections

Medical Director

Dover, NH

### **Education:**

University of Illinois Medical School, Chicago, IL

M.D., Family Practice

Yale University, New Haven, CT

B.A.

Mac Neal Memorial Hospital, Berwyn, IL

Residency in Family Practice

### **Certification & Licensure:**

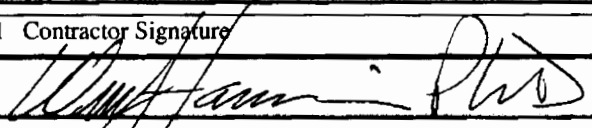
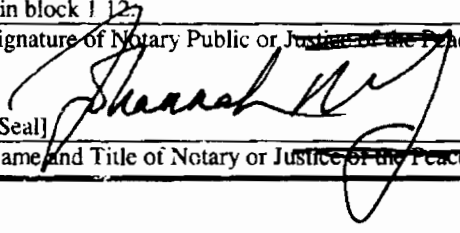

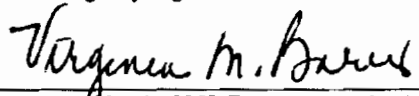
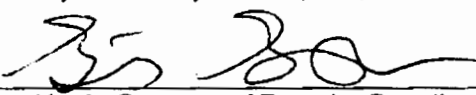
New Hampshire License #5775

Subject: Psychological Consultant 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 Education, DDS</u>		1.2 State Agency Address <u>21 S. Fruit St., Suite 30, Concord, NH 03301</u>	
1.3 Contractor Name <u>William J. Jamieson, PhD</u>		1.4 Contractor Address <u>332 Walnut St., Manchester, NH 03104</u>	
1.5 Contractor Phone Number <u>(603) 669-4130</u>	1.6 Account Number <u>565510-4040-046-500462</u>	1.7 Completion Date <u>June 30, 2017</u>	1.8 Price Limitation <u>\$51,660.00</u>
1.9 Contracting Officer for State Agency <u>Paul K. Leather, Deputy Commissioner of Education</u>		1.10 State Agency Telephone Number <u>603-271-7301</u>	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory <u>WILLIAM J. JAMIESON, Ph.D</u>	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>3/19/15</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  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace <u></u>			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory <u>Virginia M. Barry, PhD, Commissioner of Education</u>	
1.16 Approved by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sara J. Milligan</u> Director, On: <u>5-26-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By:  On: <u>6/3/15</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 *WJ*  
Date *3/19/2015*



**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

Contractor Initials *WJ*  
Date *11/3/19/2015*

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.

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials

Date

*[Handwritten Signature]*  
*[Handwritten Date]* 3/19/2015

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials *WJ*  
Date *11/3/19/2015*

**Exhibit B**

**Payment Terms**

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials

Date

*UJ*  
*10/19/2015*

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$51,660.00 for the biennium - \$25,830.00 for FY'16 and \$25,830.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials

Date

*[Handwritten Signature]*  
01/31/2015

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials

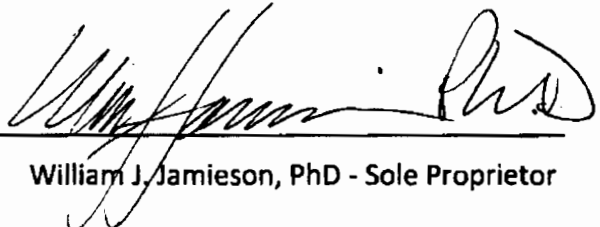
Date

*WJ*  
*03/19/2015*

STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY

I, William J. Jamieson, PhD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
19th day of MARCH, 2015.

  
William J. Jamieson, PhD - Sole Proprietor

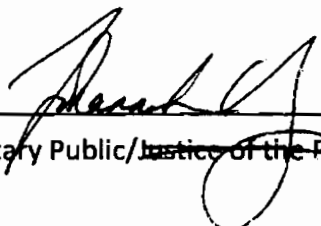
State of: New Hampshire

County of: Merrimack

On March 19, 2015, before the undersigned officer personally appeared the person identified in the foregoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.



  
Notary Public/Justice of the Peace



## **CURRICULUM VITAE**

William J Jamieson, PhD

### **Professional Experience:**

State of NH, Disability Determination Service

Psychology Consultant

Specialty: Neuro-psychological exams

Dr. Jamieson's education and experiential background in Neuro-psychological exams qualifies him to provide psychological consultation related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

Northeast Psychiatric Associates

Staff Psychologist

Great Manchester Mental Health Center

Staff Psychologist

University of Michigan Hospital

### **Education:**

University of Michigan

Ph.D., Psychology

Yale University, New Haven, CT

Psychology B.A.

Boston Neurobehavioral Institute

Postdoctoral-neuropsychology

### **Certification & Licensure:**

New Hampshire License #256

Subject: Psychological Consultant 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.

Form with fields for State Agency Name, Contractor Name, Completion Date, Price Limitation, Signatures, and Approvals. Includes a notary seal for Virginia M. Barry, Notary Public, New Hampshire, Commission Expires Feb. 6, 2019.

**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   
Date 8/12/13

**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.**

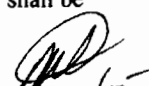
14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

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

Contractor Initials   
Date 12/12/15

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.

## Exhibit A

### Scope of the Work:


Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials

Date

  
3/12/11

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials

Date

  
5/12/15

## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials   
Date 




## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$149,730.00 for the biennium - \$74,865.00 for FY'16 and \$74,865.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials \_\_\_\_\_  
Date \_\_\_\_\_

  
3/12/15

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials \_\_\_\_\_

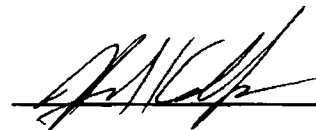
Date \_\_\_\_\_

Handwritten signature and date: 3/12/15

STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY

I, Nicholas Kalfas, PhD, as sole proprietor of my business, certify that I an authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
12<sup>th</sup> day of March, 2015.

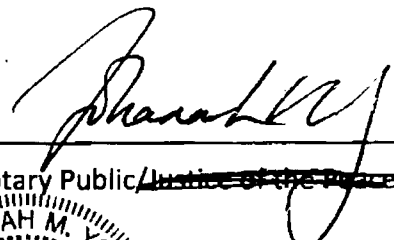
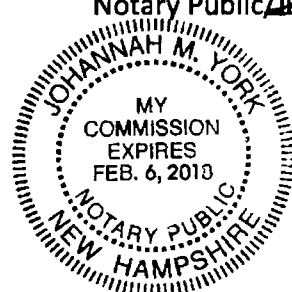
  
\_\_\_\_\_  
Nicholas Kalfas, PhD - Sole Proprietor

State of: New Hampshire

County of: Merrimack

On March 12, 2015, before the undersigned officer personally appeared the person identified in the forgoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the the foregoing certificate.

In witness whereof, I set my hand.

  
\_\_\_\_\_  
Notary Public/~~Justice of the Peace~~  


## CURRICULUM VITAE

Nicholas Kalfas, Ph.D

### **Professional Experience:**

State of NH, Disability Determination Service

Chief Psychological Consultant

Specialty: Counseling

Dr. Kalfas's education and experiential background in Counseling qualifies him to provide psychological consultation related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616. (Medical or Psychological Consultants).

Independent Practice (full time)

Gilford Counseling Services

Village West

Gilford, NH

Area Director (CEO)

Dept of Mental Health

Haverhill/Newburyport Area

One Main St.

Merrimac, MA

Asst Superintendent for Children's Services

Bureau of Institutional Schools

Dept of Education

Hogan Regional Center, Box A

Hawthorne, MA

Community Evaluation and Rehab Clinic

Principal Psychologist

Hogan Regional Center

Hawthorne, MA

Principal Psychologist

Adolescent Unit

Hogan Regional Center

Hawthorne, MA

### **Education:**

PhD – University of Arizona, Tucson; Counseling and Guidance/Education Psychology

Med – College of Education, University of NH, Durham; Counselor Education

BA – Belknap College, Center Harbor, NH; Psychology

### **Certification and Licensure:**

New Hampshire License #121

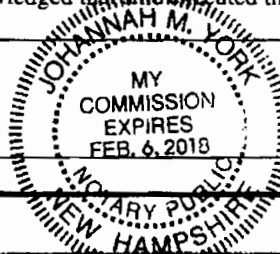
Subject: Psychological Consultant

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name NH Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name Laura Landerman, PhD		1.4 Contractor Address 18 Forrence Dr., Hollis, NH 03049	
1.5 Contractor Phone Number (603) 689-4191	1.6 Account Number 565510-4040-046-500462	1.7 Completion Date June 30, 2017	1.8 Price Limitation \$183,000.00
1.9 Contracting Officer for State Agency Paul K. Leather, Deputy Commissioner of Education		1.10 State Agency Telephone Number 603-271-7301	
1.11 Contractor Signature <i>Laura Landerman PhD</i>		1.12 Name and Title of Contractor Signatory Laura M Landerman PhD	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>3/19/15</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 she executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace <i>Johannah M. York</i> [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace			
1.14 State Agency Signature <i>Virginia M. Barry</i>		1.15 Name and Title of State Agency Signatory Virginia M. Barry, PhD. Commissioner of Education	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <i>Sara Hurlighan</i> Director, On: <i>5-26-15</i>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <i>Bill Go</i> On: <i>6/3/15</i>			
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.

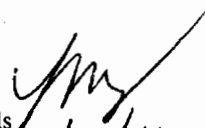
5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

**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   
Date 3/29/15

**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

Contractor Initials *[Signature]*  
Date *3/14/15*

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.

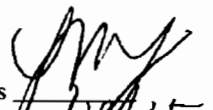
**20. THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

**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.

  
3/11/15



## Exhibit A

### Scope of the Work:

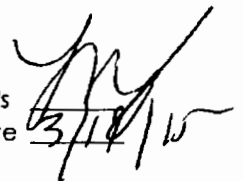
Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials

Date

  
3/14/10

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials

Date

*JMP*  
3/19/13

## Exhibit B

### Payment Terms

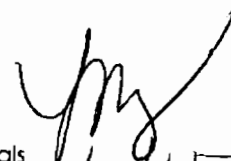
In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials  
Date

  
3/19/15

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$183,000.00 for the biennium - \$91,500.00 for FY'16 and \$91,500.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials  
Date

  
3/19/18

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

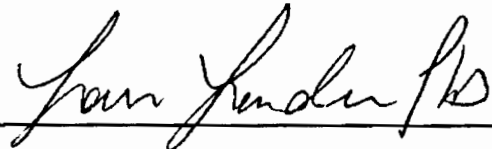
Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials YMY  
Date 3/19/15

**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, Laura Landerman, PhD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
19 day of March, 2015.

  
\_\_\_\_\_  
Laura Landerman, PhD - Sole Proprietor


State of: New Hampshire

County of: Merrimack

On March 19, 2015, before the undersigned officer personally appeared the person identified in the forgoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.



  
\_\_\_\_\_  
Notary Public/Justice of the Peace

## CURRICULUM VITAE

Laura M. Landerman, Ph.D.

### **Professional Experience:**

State of NH, Disability Determination Service

Psychological Consultant

Specialty: Child/Adolescent Psychology

Dr. Landerman's education and experiential background in Child/Adolescent Psychology qualifies her to provide psychological consultation related to evaluating evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

Lamora Psychological Associates

Nashua, New Hampshire

Slatoff & Ward Psychological Associates

(currently known as Foundation Behavioral Health Associates)

Nashua, NH

Charter Brookside Hospital/Northeast Psychiatric Associates

Nashua, NH

Mount Sinai Hospital

Dept of Child and Adolescent Psychiatry

Hartford, CT

### **Education:**

Pennsylvania State University

University Park, Pennsylvania

Doctor in Psychology

University of Pittsburgh

Pittsburgh, Pennsylvania

Master of Psychiatric Social Work

Pennsylvania State University

University Park, Pennsylvania

B.A. - Abnormal and Developmental Psychology

### **Certification & Licensure**


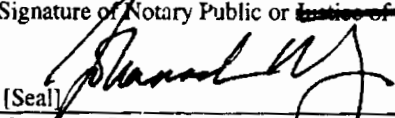
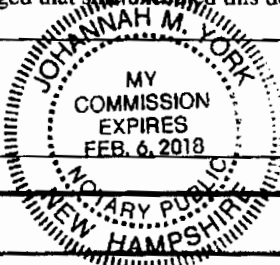
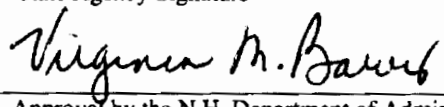
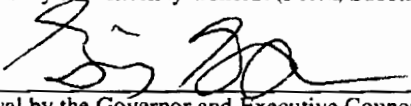
New Hampshire License #478

Subject: Medical Consultant 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 Education, DDS</u>		1.2 State Agency Address <u>21 S. Fruit St., Suite 30, Concord, NH 03301</u>	
1.3 Contractor Name <u>John MacEachran, MD</u>		1.4 Contractor Address <u>402 Spring Hill Rd., Sharon, NH 03458</u>	
1.5 Contractor Phone Number <u>(603) 942-6113</u>	1.6 Account Number <u>565510-4040-046-500462</u>	1.7 Completion Date <u>June 30, 2017</u>	1.8 Price Limitation <u>\$207,000.00</u>
1.9 Contracting Officer for State Agency <u>Paul K. Leather, Deputy Commissioner of Education</u>		1.10 State Agency Telephone Number <u>603-271-7301</u>	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory <u>John MacEachran MD</u>	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>3/23/15</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  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace <u></u>			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory <u>Virginia M. Barry, PhD. Commissioner of Education</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sara Hillegharan</u> Director, On: <u>5-26-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By:  On: <u>6/3/15</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.

## 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.

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials                       
Date 3/23/15

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$207,000.00 for the biennium - \$103,500.00 for FY'16 and \$103,500.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials   
Date 3/23/15

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials SK  
Date 3/23/15



**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, John MacEachran, MD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
23rd day of March, 2015.



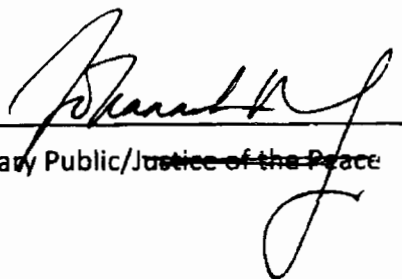
John MacEachran, MD - Sole Proprietor

State of: New Hampshire

County of: Merrimack

On March 23, 2015, before the undersigned officer personally appeared the person identified in the foregoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.

  
Notary Public/Justice of the Peace

## Curriculum Vitae

John H. MacEachern, MD

### **Professional Experience:**

State of NH, Disability Determination Service  
Chief Medical Consultant  
Specialty: Family Practice

Dr. MacEachern's education and experiential background in Family Practice qualifies him to provide medical consultation related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

Monadnock Community Hospital, Peterborough, NH  
Emergency Department Staff Physician

Private Practice, Family Practice, Jaffrey, NH  
Monadnock Community Hospital, Peterborough, NH

### **Education:**

Dartmouth Medical School, Hanover NH  
Doctor of Medicine

Residency - Milton S. Hershey Medical Center  
PA State University  
Hershey Pennsylvania  
Dept of Family Medicine

Dartmouth College, Hanover NH  
B.A. - History

### **Certification and Licensure:**

New Hampshire License #6244

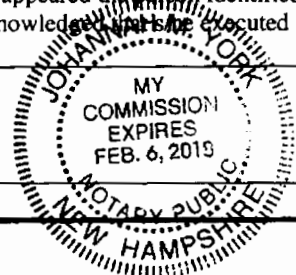
Subject: Psychological Consultant FORM NUMBER P-37 ( version 1/09)

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

GENERAL PROVISIONS

1. IDENTIFICATION.

Form with fields for State Agency Name, Contractor Name, Address, Phone, Account Number, Completion Date, Price Limitation, Signatures, and Approvals.



**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.

**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

Contractor Initials SM  
Date 3/11/10

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.

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials  
Date

*SPM*  
9/14/11

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials

*EDM*

Date

*3/1/16*



## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials

Date

*EMM*  
*2/11/15*

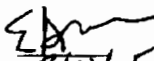
## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$86,688.00 for the biennium - \$43,344.00 for FY'16 and \$43,344.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials

Date

  
3/11/15

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462


Contractor Initials CDM  
Date 9/11/15

**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, Edward Martin, PhD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this

11<sup>th</sup> day of MARCH, 2015.



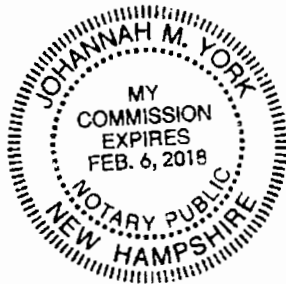
Edward Martin, PhD - Sole Proprietor

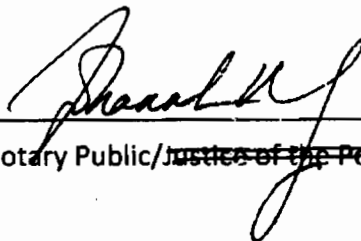
State of: New Hampshire

County of: Merrimack

On March 11, 2015, before the undersigned officer personally appeared the person identified in the foregoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.



  
Notary Public/Justice of the Peace

## CURRICULUM VITAE

Edward G. Martin, Ph.D

### **Professional Experience:**

State of NH, Disability Determination Service

Psychological Consultant

Specialty: Clinical Psychologist

Dr. Martin's education and experiential background in Clinical Psychologist qualifies him to provide psychological consultation related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

Private Practice

Littleton, NH

Sacopec Valley Health Center

Director - Mental Health Services

Kezar Falls, ME

Western Maine Counseling Service, Inc.

Clinical Director

Bridgton, ME

VA Medical Center

Staff Psychologist

Brockton, MA

VA Medical Center

Staff Psychologist

Perry Point, MD

### **Education:**

University of Vermont – Ph.D .

PhD. Clinical Psychology

University of Maine

B.A. – Psychology

### **Certification & Licensure:**

New Hampshire License #301

Subject: Medical Consultant

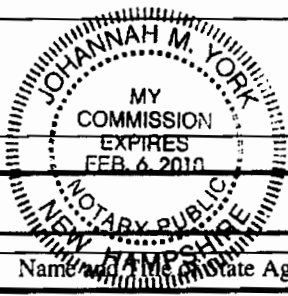
FORM NUMBER P-37 ( version 1/09)

**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 Education, DDS</u>		1.2 State Agency Address <u>21 S. Fruit St., Suite 30, Concord, NH 03301</u>	
1.3 Contractor Name <u>Louis Rosenthal, MD</u>		1.4 Contractor Address <u>26 Dwinell Dr., Concord, NH 03301</u>	
1.5 Contractor Phone Number <u>(603) 228-0087</u>	1.6 Account Number <u>565510-4040-046-500462</u>	1.7 Completion Date <u>June 30, 2017</u>	1.8 Price Limitation <u>\$100,040.00</u>
1.9 Contracting Officer for State Agency <u>Paul K. Leather, Deputy Commissioner of Education</u>		1.10 State Agency Telephone Number <u>603-271-7301</u>	
1.11 Contractor Signature <u>Louis E Rosenthal MD</u>		1.12 Name and Title of Contractor Signatory <u>LOUIS E. ROSENTHALL MD</u>	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>3/20/15</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>[Signature]</u>			
1.13.2 Name and Title of Notary or Justice of the Peace <u>[Blank]</u>			
1.14 State Agency Signature <u>Virginia M. Barry</u>		1.15 Name and Title of State Agency Signatory <u>Virginia M. Barry, PhD. Commissioner of Education</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sara J. McLaughlin</u> Director, On: <u>5-26-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <u>[Signature]</u> On: <u>6/3/15</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 LR  
Date 20 MAR 2015

**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

Contractor Initials UR  
Date 20 MAR 2015



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.

Contractor Initials LR  
Date 20 MAR 2015

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials

Date

LR  
20 MAR  
2015

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials  
Date

LR  
20 MAR  
2015

**Exhibit B**

**Payment Terms**

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials  
Date

*LR*  
*20 MAR 2015*

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$100,040.00 for the biennium - \$50,020.00 for FY'16 and \$50,020.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials  
Date

LR  
MAR  
20 2015

**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, Louis Rosenthal, MD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this 20<sup>th</sup> day of MARCH, 2015.

Louis Rosenthal  
Louis Rosenthal, MD - Sole Proprietor

State of: New Hampshire

County of: Merrimack

On March 20, 2015, before the undersigned officer personally appeared the person identified in the forgoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.

[Signature]  
Notary Public/~~Justice of the Peace~~



## **CURRICULUM VITAE**

Louis E Rosenthal, MD

### **Professional Experience:**

State of NH, Disability Determination Service

Medical Consultant

Specialty: Family Practice, Geriatrics

Dr. Rosenthal's education and experiential background in Family Practice & Geriatrics qualifies him to provide medical consultation related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

Family Practice

Merrimack, NH

US Army Medical Corps

NH Odd Fellows Home

Medical Director

Concord, NH

NH Academy of Family Physicians

Education Chairman

### **Education:**

Penn State University

B.S.

Boston University M.D.

Internship – Maine Medical Center

Portland, ME

### **Certification & Licensure:**

New Hampshire License #5567



Subject: Psychological Consultant 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 Education, DDS</u>		1.2 State Agency Address <u>21 S. Fruit St., Suite 30, Concord, NH 03301</u>	
1.3 Contractor Name <u>Patricia Salt, PhD</u>		1.4 Contractor Address <u>25 Shady Hill Dr., North Reading, MA 01864</u>	
1.5 Contractor Phone Number <u>(978) 808-9698</u>	1.6 Account Number <u>565510-4040-046-500462</u>	1.7 Completion Date <u>June 30, 2017</u>	1.8 Price Limitation <u>\$91,350.00</u>
1.9 Contracting Officer for State Agency <u>Paul K. Leather, Deputy Commissioner of Education</u>		1.10 State Agency Telephone Number <u>603-271-7301</u>	
1.11 Contractor Signature <u>Patricia Salt, PhD</u>		1.12 Name and Title of Contractor Signatory <u>PATRICIA SALT, Ph.D.</u>	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>3/19/15</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 he or she executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace <u>[Signature]</u> [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace <u>[Blank]</u>			
1.14 State Agency Signature <u>Virginia M. Barry</u>		1.15 Name and Title of State Agency Signatory <u>Virginia M. Barry, PhD, Commissioner of Education</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sana Gilligan</u> Director, On: <u>5-26-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <u>[Signature]</u> On: <u>6/3/15</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 PS  
Date 3/19/15

**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

Contractor Initials *PS*  
Date *3/19/15*

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.

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials PS  
Date 3/19/15

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials JS  
Date 3/19/15

## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$91,350.00 for the biennium - \$45,675.00 for FY'16 and \$45,675.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials

Date

PS  
3/19/15



**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials PS  
Date 3/19/15

**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, Patricia Salt, PhD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
19<sup>th</sup> day of March, 2015.

Patricia Salt, PhD  
Patricia Salt, PhD - Sole Proprietor

State of: New Hampshire

County of: Merrimack

On March 19, 2015, before the undersigned officer personally appeared the person identified in the foregoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.



Johannah M. York  
Notary Public/~~State of New Hampshire~~

## **CURRICULUM VITAE**

Patricia Salt, PhD

### **Professional Experience:**

State of NH, Disability Determination Service

Psychological Consultant

Specialty: Clinical Psychology

Dr. Salt's education and experiential background in Clinical Psychology qualifies her to provide psychological consultation related to evaluating evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616. (Medical or Psychological Consultants).

Private Practice

Merrimack, NH

Berke and Associates

Consulting Psychologist

### **Education:**

Boston University

Ph.D. Psychology

Boston University

M.A. Psychology

Antioch College

B.A. Psychology

### **Certification & Licensure:**

New Hampshire, License #545

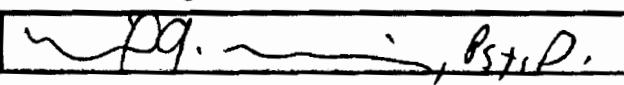
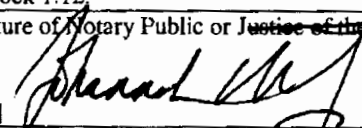

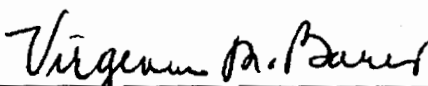
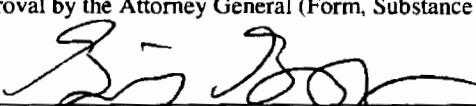
Subject: Psychological Consultant FORM NUMBER P-37 ( version 1/09)

**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 Education, DDS</u>		1.2 State Agency Address <u>21 S. Fruit St., Suite 30, Concord, NH 03301</u>	
1.3 Contractor Name <u>Michael A. Schneider, PsyD</u>		1.4 Contractor Address <u>186 Roberts Hill Rd., Claremont, NH 03743</u>	
1.5 Contractor Phone Number <u>(603) 542-8993</u>	1.6 Account Number <u>565510-4040-046-500462</u>	1.7 Completion Date <u>June 30, 2017</u>	1.8 Price Limitation <u>\$189,000.00</u>
1.9 Contracting Officer for State Agency <u>Paul K. Leather, Deputy Commissioner of Education</u>		1.10 State Agency Telephone Number <u>603-271-7301</u>	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory <u>Michael A. Schneider, Psychologist</u>	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>3/13/15</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  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace <u></u>			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory <u>Virginia M. Barry, PhD. Commissioner of Education</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sara Gillenjian</u> Director, On: <u>5-26-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By:  On: <u>6/3/15</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 M. Q.  
Date 3/12/15

**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

Contractor Initials 3/13/15 mda  
Date 3/13/15

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.

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials mqe  
Date 3/13/15



**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials myd/ab  
Date 3/13/12

**Exhibit B**

**Payment Terms**

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials *M.A.R.*  
Date *3/13/15*

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$189,000.00 for the biennium - \$94,500.00 for FY'16 and \$94,500.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials m.d.a.  
Date 3/12/15

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials M.d.R.  
Date 3/13/15

STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY

I, Michael A. Schneider, PsyD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
13 day of March, 2015.



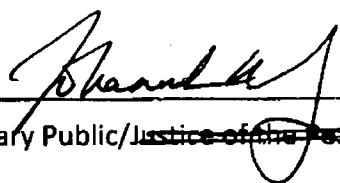
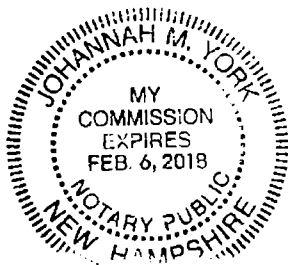
Michael A. Schneider, PsyD - Sole Proprietor

State of: New Hampshire

County of: Merrimack

On March 13, 2015, before the undersigned officer personally appeared the person identified in the forgoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.

  
Notary Public/~~Justice of the Peace~~

## CURRICULUM VITAE

Michael A. Schneider, PsyD

### **Professional Experience:**

State of NH, Disability Determination Service  
Psychological Consultant  
Specialty: Clinical Psychology, School Psychology

Dr. Schneider's education and experiential background in Clinical Psychology & School Psychology qualifies him to provide psychological consultation related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

Private Practice  
Claremont, NH

New Hampshire Hospital  
Consulting Psychologist

Warren D. Fitzgerald & Assoc.  
Group Practice

### **Education:**

Hahnemann Medical University & Hospital, Philadelphia, PA  
Psy.D. Clinical Psychology

Hahnemann Medical University & Hospital, Philadelphia, PA  
M.S. Clinical Psychology

Herbert H. Lehman College, Bronx, NY  
B.A. History

### **Certification & Licensure:**

Licensed Psychologist NH, #261  
Licensed Psychologist VT, #284  
Licensed Psychologist CO, #3538

Subject: Medical Consultant

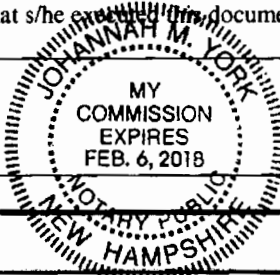
FORM NUMBER P-37 ( version 1/09)

**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 Education, DDS</u>		1.2 State Agency Address <u>21 S. Fruit St., Suite 30, Concord, NH 03301</u>	
1.3 Contractor Name <u>Natacha Sochat, MD MFA</u>		1.4 Contractor Address <u>358 Quaker St., Wearne, NH 03281</u>	
1.5 Contractor Phone Number <u>(603) 529-5907</u>	1.6 Account Number <u>565510-4040-046-500462</u>	1.7 Completion Date <u>June 30, 2017</u>	1.8 Price Limitation <u>\$144,768.00</u>
1.9 Contracting Officer for State Agency <u>Paul K. Leather, Deputy Commissioner of Education</u>		1.10 State Agency Telephone Number <u>603-271-7301</u>	
1.11 Contractor Signature <u>Natacha Sochat</u>		1.12 Name and Title of Contractor Signatory <u>Natacha Sochat MD MFA</u>	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>3/13/15</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] [Signature]</u>			
1.13.2 Name and Title of Notary or Justice of the Peace <u>[Blank]</u>			
1.14 State Agency Signature <u>Virginia M. Barry</u>		1.15 Name and Title of State Agency Signatory <u>Virginia M. Barry, PhD. Commissioner of Education</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sara Jullighan</u> Director, On: <u>5-26-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <u>[Signature]</u> On: <u>6/3/15</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 *NS*  
Date *3/13/2015*



**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

Contractor Initials *MS*  
Date *3/13/2005*

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.

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials

Date

NS  
3/13/2015

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials

*AB*

Date *3/13/2015*

## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials

Date

*AS*  
*3/13-2015*

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$144,768.00 for the biennium - \$72,384.00 for FY'16 and \$72,384.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials

Date 3/13/2015

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials

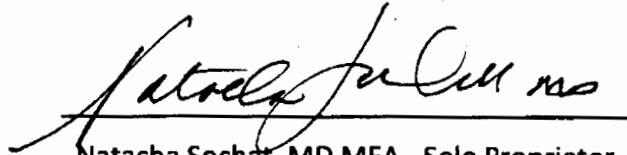
Date

*AS*  
3/13/2015

STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY

I, Natacha Sochat, MD MFA, as sole proprietor of my business, certify that I an authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
13<sup>th</sup> day of March, 2015.

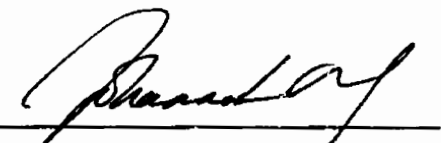
  
\_\_\_\_\_  
Natacha Sochat, MD MFA - Sole Proprietor

State of: New Hampshire

County of: Merrimack

On March 13, 2015, 2015, before the undersigned officer personally appeared the person identified in the forgoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the the foregoing certificate.

In witness whereof, I set my hand.

  
\_\_\_\_\_  
Notary Public/~~Justice of the Peace~~





## CURRICULUM VITAE

Natacha Villamia Sochat MD MFA

### **Professional Experience:**

Medical Director Greater Nashua Public Health and Community Services  
Metrowest Medical Center Department Emergency Medicine  
Senior Staff Emergency Medicine Physician, Lawrence General  
Chief Resident Medicine Carney Hospital  
Carney Hospital Department of Medicine  
Department of Anesthesiology and Critical Care

### **Education:**

Board Eligible Internal Medicine  
MFA Tufts University/School of the Museum of Fine Arts Boston  
Boston University School of Medicine M.D.  
Cedars Sinai Medical Center and VA Wadsworth Medical Center  
Carney Hospital  
Biology Boston University B.A.

### **Certification & Licensure:**

New Hampshire Board of Medicine  
National Board Medical Examiners

New Hampshire License #13359

Subject: Psychological Consultant

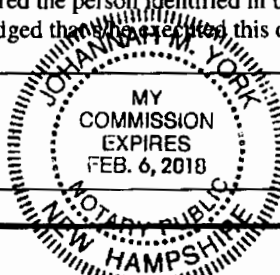
FORM NUMBER P-37 ( version 1/09)

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name NH Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name Craig E. Stenslie, PhD.		1.4 Contractor Address 10 Bayview Rd., Durham, NH 03824	
1.5 Contractor Phone Number (603) 749-0992	1.6 Account Number 565510-4040-046-500462	1.7 Completion Date June 30, 2017	1.8 Price Limitation \$80,010.00
1.9 Contracting Officer for State Agency Paul K. Leather, Deputy Commissioner of Education		1.10 State Agency Telephone Number 603-271-7301	
1.11 Contractor Signature <i>[Signature]</i>		1.12 Name and Title of Contractor Signatory Craig E. Stenslie, PhD. Consultant	
1.13 Acknowledgement: State of NH, County of Merrimack On 3/19/15, 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 he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace <i>[Signature]</i> (Seal)			
1.13.2 Name and Title of Notary or Justice of the Peace			
1.14 State Agency Signature <i>[Signature]</i>		1.15 Name and Title of State Agency Signatory Virginia M. Barry, PhD. Commissioner of Education	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: Sara Milligan Director, On: 5-26-15			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <i>[Signature]</i> On: 6/3/15			
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.

**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

Contractor Initials   
Date 3/19/15

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.

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials



Date

3/19/15

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials       
Date 3/14/15

**Exhibit B**

**Payment Terms**


In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials


  
Date 3/19/15



## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$80,010.00 for the biennium - \$40,005.00 for FY'16 and \$40,005.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials   
Date 3/19/15

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

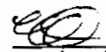
This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials

Date

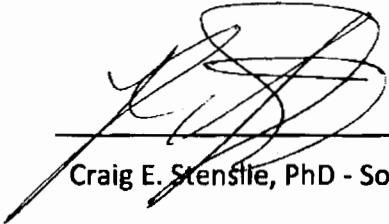
  
3/19/15

STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY

I, Craig E. Stenslie, PhD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this

19 day of March, 2015.

  
\_\_\_\_\_  
Craig E. Stenslie, PhD - Sole Proprietor

State of: New Hampshire

County of: Merrimack

On 3/19, 2015, before the undersigned officer personally appeared the person identified in the forgoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.



  
\_\_\_\_\_  
Notary Public/Justice of the Peace

## CURRICULUM VITAE

Craig E. Stenslie, Ph.D.

### **Professional Experience:**

State of NH, Disability Determination Service  
Psychological Consultant

Specialty: Clinical Psychology, Neuropsychology

Dr. Stenslie's education and experiential background in Clinical Psychology & Neuropsychology qualifies him to provide psychological consultation related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

Strafford Guidance Center, Dover, NH  
Manager of Satellite Outpatient/Outpatient Psychotherapist

Human Nutrition Laboratory, Grand Forks, ND  
Research Assistant/Staff Psychologist

Pennsylvania State University  
Teaching Assistant

University of North Dakota  
Research Assistant

### **Education:**

PhD – Pennsylvania State University, University Park, PA  
Clinical Psychology

M.S. – Pennsylvania State University, University Park, PA  
Clinical Psychology

B.A. – University of North Dakota, Grand Forks, ND  
Psychology Major

### **Certification & Licensure:**

New Hampshire #355

## § 404.1616. Medical or psychological consultants.

(a) *What is a medical consultant?* A medical consultant is a person who is a member of a team that makes disability determinations in a State agency, as explained in § 404.1615, or who is a member of a team that makes disability determinations for us when we make disability determinations ourselves.

(b) *What qualifications must a medical consultant have?* A medical consultant must be an acceptable medical source identified in § 404.1513(a)(1) or (a)(3) through (a)(5); that is, a licensed physician (medical or osteopathic), a licensed optometrist, a licensed podiatrist, or a qualified speech-language pathologist. The medical consultant must meet any appropriate qualifications for his or her specialty as explained in § 404.1513(a).

(c) *Are there any limitations on what medical consultants who are not physicians can evaluate?* Medical consultants who are not physicians are limited to evaluating the impairments for which they are qualified, as described in § 404.1513(a). Medical consultants who are not physicians also are limited as to when they may serve as a member of a team that makes a disability determination. For example, a speech-language pathologist who is a medical consultant in a State agency may be a member of a team that makes a disability determination in a claim only if a speech or language impairment is the only impairment in the claim or if there is a combination of a speech or language impairment with another impairment but the speech or language impairment alone would justify a finding of disability. In all other cases, a physician will be a member of the team that makes a disability determination, except in cases in which this function may be performed by a psychological consultant as discussed in paragraph (f) of this section and § 404.1615 (d).

(d) *What is a psychological consultant?* A psychological consultant is a psychologist who has the same responsibilities as a medical consultant explained in paragraph (a) of this section, but who can evaluate only mental impairments.

(e) *What qualifications must a psychological consultant have?* A psychological consultant used in cases where there is evidence of a mental impairment must be a qualified psychologist. For disability program purposes, a psychologist will not be considered qualified unless he or she:

(1) Is licensed or certified as a psychologist at the independent practice level of psychology by the State in which he or she practices; and

(2)(i) Possesses a doctorate degree in psychology from a program in clinical psychology of an educational institution accredited by an organization recognized by the Council on Post-Secondary Accreditation; or

(ii) Is listed in a national register of health service providers in psychology which the Commissioner of Social Security deems appropriate; and

(3) Possesses 2 years of supervised clinical experience as a psychologist in health service, at least 1 year of which is post masters degree.

(f) *Are there any limitations on what a psychological consultant can evaluate?* Psychological consultants are limited to the evaluation of mental impairments, as explained in § 404.1615(d). Psychological consultants also are limited as to when they can serve as a member of a team that makes a disability determination. They may do so only when a mental impairment is the only impairment in the claim or when there is a combination of a mental impairment with another impairment but the mental impairment alone would justify a finding of disability.

[65 FR 34958, June 1, 2000, as amended at 71 FR 16445, Mar. 31, 2006; 76 FR 24808, May 3, 2011]

Virginia M. Barry, Ph.D.  
Commissioner of Education  
Tel: (603) 271-3144



Paul K. Leather  
Deputy Commissioner  
Tel: (603) 271-3801

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
DEPT. OF EDUCATION CITIZENS SERVICES 1-800-339-9900  
21 South Fruit Street, Suite 20  
Concord, NH 03301  
603-271-3471 TTY/V

December 16, 2015

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

**REQUESTED ACTION**

Authorize the Department of Education, Division of Career Technology and Adult Learning to amend a **sole source** contract with various medical consultants by adding the vendors listed below, originally approved by Governor and Council on June 24, 2015 (Item #156), for the purpose of conducting disability determination medical decisions. This amendment increases the price limitation by \$439,560.00 from \$1,693,124.00 to \$2,132,684, effective upon Governor and Council approval through June 30, 2017. 100% Federal Funds.

The individuals to be contracted with are as follows:

		<u>FY2016</u>	<u>FY2017</u>
David Eldredge, MD	Vendor Code: 269335	\$56,100	\$88,860
Robert Kiefner, MD	Vendor Code: 201595	\$56,100	\$88,860
James Trice, MD	Vendor Code: 218516	\$59,160	\$90,480

Funding is available in the account titled Disability Determination Services for FY16 and FY17 as follows:

FY 16	06-56-56-565510-40400000-046-500462	Consultants	\$171,360.00
FY 17	06-56-56-565510-40400000-046-500462	Consultants	\$268,200.00

**EXPLANATION**

These requests are **sole source** because the vendors, identified above, possess the unique expertise required to complete disability determination medical decisions in an accurate and timely manner as mandated in Federal Regulation 20 CFR 404.1620.

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
November 18, 2015  
Page 2 of 2

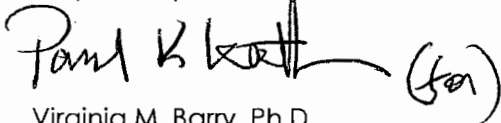
The Disability Determination Service (DDS), which serves under the Division of Career Technology and Adult Learning at the Department of Education, uses medical and psychological consultants to review and advise staff in the determination of eligibility for Social Security disability benefits, for the residents of New Hampshire. Per Federal Regulation 20 CFR 404.1620: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly." The chief medical and chief mental impairment consultants, in addition to these duties, resolve difficult medical issues and provide training. The consultants must maintain current licensure in the state.

The DDS is in need of 3 additional medical consultants to replace 3 retired/relocated consultants, who were approved through June 30, 2017. DDS consultants are needed to evaluate medical evidence and to determine its adequacy for making disability decisions. The consultant then prepares an assessment of the individual's functional limitations imposed by the impairment(s). The Consultants also provide consultation in the development of internal forms, reviewing the quality of examination reports from independent vendors. At this time, due to the lack of physical medical consultants, the DDS has been sending claims electronically to Boston and Washington DC for assessments/form completion. The DDS is also anticipating an increased workload of over 800 additional Continuing Disability Review claims this Federal Fiscal Year. The consultants do not perform examinations and never meet the disability applicant, so there is no doctor/patient relationship.

Permission is requested to accept the fee schedule proposed with longevity adjustments as shown on Exhibit B.

In the event that Federal Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul K. Barry", followed by a circled "for" in parentheses.

Virginia M. Barry, Ph.D.  
Commissioner of Education



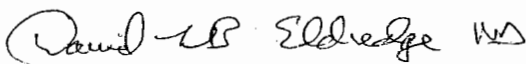
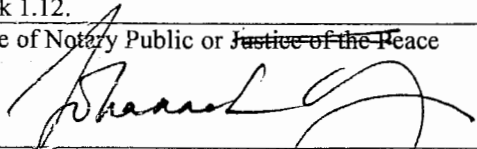
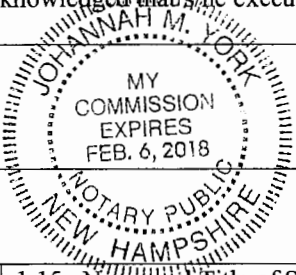
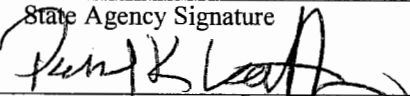
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name NH Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name David Eldredge, MD		1.4 Contractor Address 65 Middle Rd., Brentwood, NH 03833	
1.5 Contractor Phone Number (603) 772-1319	1.6 Account Number 565510-4040-046-500462	1.7 Completion Date June 30, 2017	1.8 Price Limitation \$144,960.00
1.9 Contracting Officer for State Agency Paul K. Leather, Deputy Commissioner of Education		1.10 State Agency Telephone Number (603) 271-7301	
1.11 Contractor Signature  		1.12 Name and Title of Contractor Signatory  DAVID L. B. ELDREDGE MD	
1.13 Acknowledgement: State of <i>New Hampshire</i> County of <i>Merrimack</i> On <i>12/1/15</i> , 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 [Seal] 			
1.13.2 Name and Title of Notary or Justice of the Peace 			
1.14 State Agency Signature  Date: <i>12-2-15</i>		1.15 Name and Title of State Agency Signatory	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <i>Sana O'Halligan</i> Director, On: <i>12-2-15</i>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: <i>Eric Melnyk</i> On: <i>12/2/15</i>			
1.18 Approval by the Governor and Executive Council (if applicable) By: On:			

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

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

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

**5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this

Agreement. This provision shall survive termination of this Agreement.

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

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

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 14. INSURANCE.

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

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

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

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

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

**15. WORKERS' COMPENSATION.**

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

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

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

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

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

such approval is required under the circumstances pursuant to State law, rule or policy.

**19. CONSTRUCTION OF AGREEMENT AND TERMS.**

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

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

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

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

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

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

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials DE  
Date 12/1/15

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to ensure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials DE  
Date 12/1/15

## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month through the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials DE  
Date 12/1/15

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$144,960.00 for the biennium - \$56,100.00 for FY'16 and \$88,860.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. If there is any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is on an "as needed" basis.

Contractor Initials DE  
Date 12/1/15



**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in Paragraph #14 is waived. This is an amendment to a contract previously approved by Governor and Council on June 4, 2015 for physicians. The medical consultants work collaboratively with many staff in the overall processing of disability claims for Social Security. Department of Education Support Staff electronically request and review medical records. They may also request consultative evaluations, with guidance from the medical consultants. Once all of the medical evidence is in, the case processing staff analyzes the information. The medical consultants then further analyze the claims, complete assessment forms and sign off on them. However, the medical consultants do not provide any type of treatment; they do not see patients and they do not make eligibility determinations. The role of the medical consultants is limited to reviewing the records and making recommendations to Department of Education staff.

The medical consultants play a collaborative role in the overall processing of a disability claim but are not responsible for the ultimate determination. Therefore, insurance is waived due to the minimal risk of liability.

Contractor Initials DE  
Date 12/1/15

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without notice.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Contractor Initials DE  
Date 12/1/15

**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, David Eldredge, MD, as a licensed medical physician, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
1<sup>ST</sup> day of DECEMBER, 2015.

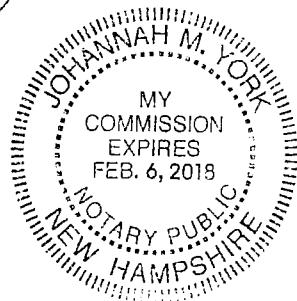
David L B Eldredge, MD  
David Eldredge, MD - Sole Proprietor

State of: **New Hampshire**

County of: **Merrimack** On 12/1, 20 15, before the undersigned officer personally appeared the person identified in the foregoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.

Johanna M. York  
Notary Public/Justice of the Peace



## **CURRICULUM VITAE**

David L. B. Eldredge, M.D., F.A.G.O.G.

### **Professional Experience:**

Dr. Eldredge's education and experiential background in Medicine qualifies him to provide medical consultation service related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

Mountain Park Health Center  
Obstetrician-Gynecologist M.D.

Dartmouth Hitchcock-Manchester  
Obstetrician-Gynecologist and Urgent Care Clinic M.D.

Seacoast Ob-GYN, PA  
Obstetrician-Gynecologist (owner of private practice)

Ob-Gyn Professional Assoc.  
Obstetrician-Gynecologist

Mercy Hospital  
E.R. Physician

### **Education:**

A.B. - Dartmouth College  
M.D. - University of Cincinnati Medical School  
Residency in Internal Medicine - Harvard Medical School  
Residency in Internal Medicine - Wake Forest University  
Residency in Obstetrics & Gynecology - Maine Medical Center

### **Certification & Licensure:**

New Hampshire License #6210

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

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name NH Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name Robert Kiefner, MD		1.4 Contractor Address 35 Ridge Rd., Concord, NH 03301	
1.5 Contractor Phone Number (603) 224-9293	1.6 Account Number 565510-4040-046-500462	1.7 Completion Date June 30, 2017	1.8 Price Limitation \$144,960.00
1.9 Contracting Officer for State Agency Paul K. Leather, Deputy Commissioner of Education		1.10 State Agency Telephone Number (603) 271-7301	
1.11 Contractor Signature  <i>Robert S. Kiefner, MD</i>		1.12 Name and Title of Contractor Signatory  Robert S. Kiefner, MD	
1.13 Acknowledgement: State of <i>New Hampshire</i> County of <i>Merrimack</i>  On <i>12/1/15</i> , 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 <del>Justice of the Peace</del>  <div style="display: flex; justify-content: space-between;"> <span>[Seal]</span> </div>			
1.13.2 Name and Title of Notary of Justice of the Peace  <div style="text-align: center;"> </div>			
1.14 State Agency Signature  <i>Paul K. Leather</i> Date: <i>12-2-15</i>		1.15 Name and Title of State Agency Signatory	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable)  By: <i>Sara Jillinghan</i> Director, On: <i>12-2-15</i>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable)  By: <i>Jim Melby</i> On: <i>12/2/15</i>			
1.18 Approval by the Governor and Executive Council (if applicable)  By: On:			

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

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

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

**5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this

Agreement. This provision shall survive termination of this Agreement.

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

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

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 14. INSURANCE.

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

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

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

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

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

**15. WORKERS' COMPENSATION.**

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

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

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

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

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

such approval is required under the circumstances pursuant to State law, rule or policy.

**19. CONSTRUCTION OF AGREEMENT AND TERMS.**

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

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

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

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

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

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



## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials KL  
Date 12/1/17

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to ensure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials SK  
Date 12/1/15

## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month through the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials SK  
Date 12/1/13

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$144,960.00 for the biennium - \$56,100.00 for FY'16 and \$88,860.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. If there is any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is on an "as needed" basis.

Contractor Initials BL  
Date 12/1/13

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in Paragraph #14 is waived. This is an amendment to a contract previously approved by Governor and Council on June 4, 2015 for physicians. The medical consultants work collaboratively with many staff in the overall processing of disability claims for Social Security. Department of Education Support Staff electronically request and review medical records. They may also request consultative evaluations, with guidance from the medical consultants. Once all of the medical evidence is in, the case processing staff analyzes the information. The medical consultants then further analyze the claims, complete assessment forms and sign off on them. However, the medical consultants do not provide any type of treatment; they do not see patients and they do not make eligibility determinations. The role of the medical consultants is limited to reviewing the records and making recommendations to Department of Education staff.

The medical consultants play a collaborative role in the overall processing of a disability claim but are not responsible for the ultimate determination. Therefore, insurance is waived due to the minimal risk of liability.

Contractor Initials BL  
Date 12/1/15

### Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without notice.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Contractor Initials BL  
Date 12/1/13

**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, Robert S. Kiefner, MD, as a licensed medical physician, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
1<sup>st</sup> day of December, 2015.

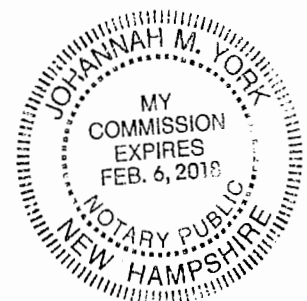
Robert S. Kiefner, MD  
Robert S. Kiefner, MD - Sole Proprietor

State of: **New Hampshire**

County of: **Merrimack** On 12/1, 20 15, before the undersigned officer personally appeared the person identified in the foregoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.

Johanna M. York  
Notary Public/Justice of the Peace



## CURRICULUM VITAE

Robert S. Kiefner, MD  
35 Ridge Road  
Concord, NH 03301

### **Professional Experience:**

Dr. Kiefner's education and experiential background in Family Practice qualifies him to provide medical consultation services related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

New Hampshire Hospital  
Consulting Physician

Concord Hospital Medical Group  
Family Physician

Hitchcock Clinic

### **Education:**

Certificate in Clinical Acupuncture, Harvard Medical School  
Fellowship, National Institute Mental Health  
Preceptorship Anesthesiology, Sheffield, UK  
NYU Graduate School  
Vassar College

### **Certification & Licensure:**

New Hampshire License #6785



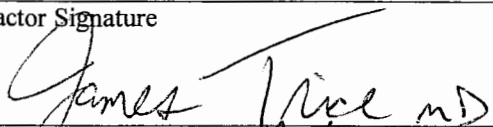
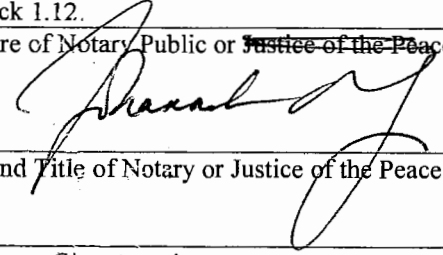
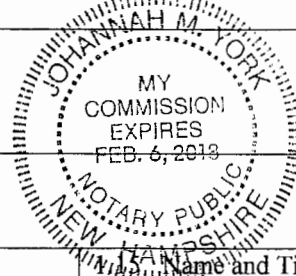
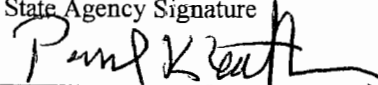
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name NH Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name James Trice, MD		1.4 Contractor Address 14 Ridgewood Lane, Concord, NH 03301	
1.5 Contractor Phone Number (603) 738-6085	1.6 Account Number 565510-4040-046-500462	1.7 Completion Date June 30, 2017	1.8 Price Limitation \$149,640.00
1.9 Contracting Officer for State Agency Paul K. Leather, Deputy Commissioner of Education		1.10 State Agency Telephone Number (603) 271-7301	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory JAMES TRICE MD	
1.13 Acknowledgement: State of <u>New Hampshire</u> County of <u>Merrimack</u> On <u>12/1/15</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  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace		1.14 State Agency Signature  Date: <u>12-2-15</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sana Jhulligian</u> Director, On: <u>12-2-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: <u>E. McHugh</u> On: <u>12/2/15</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

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

**5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this

Agreement. This provision shall survive termination of this Agreement.

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

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

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 14. INSURANCE.

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

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

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

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

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

**15. WORKERS' COMPENSATION.**

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

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

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

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

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

such approval is required under the circumstances pursuant to State law, rule or policy.

**19. CONSTRUCTION OF AGREEMENT AND TERMS.**

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

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

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

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

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

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

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials

Date

*AT*  
*12/11/2015*

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to ensure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials

Date

JT  
12/1/2015

## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month through the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials

Date

JT  
12/1/2015

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$149,640.00 for the biennium - \$59,160.00 for FY'16 and \$90,480.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. If there is any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is on an "as needed" basis.

Contractor Initials

Date

GT  
12/1/2015



**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in Paragraph #14 is waived. This is an amendment to a contract previously approved by Governor and Council on June 4, 2015 for physicians. The medical consultants work collaboratively with many staff in the overall processing of disability claims for Social Security. Department of Education Support Staff electronically request and review medical records. They may also request consultative evaluations, with guidance from the medical consultants. Once all of the medical evidence is in, the case processing staff analyzes the information. The medical consultants then further analyze the claims, complete assessment forms and sign off on them. However, the medical consultants do not provide any type of treatment; they do not see patients and they do not make eligibility determinations. The role of the medical consultants is limited to reviewing the records and making recommendations to Department of Education staff.

The medical consultants play a collaborative role in the overall processing of a disability claim but are not responsible for the ultimate determination. Therefore, insurance is waived due to the minimal risk of liability.

Contractor Initials

Date

*JF*  
*12/1/2015*

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without notice.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Contractor Initials

*JT*

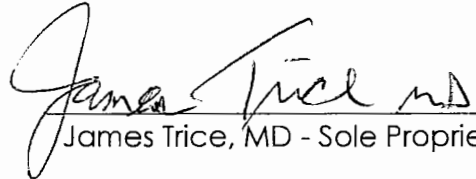
Date

*12/1/2015*

**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, James M. Trice, as a licensed medical physician, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
1 day of December, 2015.

  
James Trice, MD - Sole Proprietor

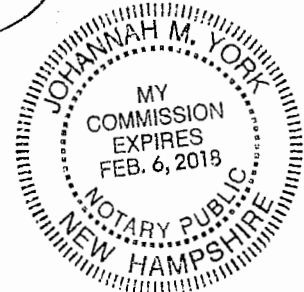
State of: **New Hampshire**

County of: **Merrimack** On 12/1, 20 15, before

the undersigned officer personally appeared the person identified in the foregoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.

  
Notary Public/Justice of the Peace



## **CURRICULUM VITAE**

James M. Trice, MD

### **Professional Experience:**

Dr. Trice's education and experiential background in Internal Medicine qualifies him to provide medical consultation service related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

University of Vermont Medical Center  
Attending Physician

State of NH, Disability Determination Service  
Medical Consultant

Ronald Reagan, UCLA Medical Center  
Attending Physician

Santa Monica UCLA Medical Center  
Attending Physician

Concord Hospital  
Attending Physician

### **Education:**

Wagner College  
Richmond College, City University of New York  
School of Medicine, University of Rome, Italy  
George Washington University, School of Medicine, MD  
Internship, Internal Medicine, George Washington University  
Residency, Internal Medicine, George Washington University  
Fellowship, Rheumatology, University of Tennessee  
International Society of Clinical Densitometry, Cert., Densitometrist  
American Board of Internal Medicine, Rheumatology, (Diplomat)  
American Board of Internal Medicine (Diplomat)

### **Certification & Licensure:**

New Hampshire License #6799

Virginia M. Barry, Ph.D.  
Commissioner of Education  
Tel: (603) 271-3144



156 mac  
Paul K. Leather  
Deputy Commissioner  
Tel: (603) 271-3801

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
DEPT. OF EDUCATION CITIZENS SERVICES 1-800-339-9900  
21 South Fruit Street, Suite 20  
Concord, NH 03301  
603-271-3471 TTY/V

June 4, 2015

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

**Requested Action**

Authorize the Department of Education to enter into **sole source** agreements with the vendors listed below to conduct disability determination medical decisions. This contract will be effective from July 1, 2015 through June 30, 2017 in an amount not to exceed \$1,693,124.00 pending legislative approval of the next biennial budget. **100% Federal funds.**

The individuals to be contracted with are as follows:

		<u>FY 2016</u>	<u>FY 2017</u>
Hugh Fairley, MD	VC 154604	\$ 78,939	\$ 78,939
Jonathan Jaffe, MD	VC 168181	126,000	126,000
William Jamieson, Ph.D.	VC 163997	25,830	25,830
Nicholas Kalfas, Ph.D.	VC 150166	74,865	74,865
Laura Landerman, Ph.D.	VC 203544	91,500	91,500
John MacEachran, MD	VC 206950	103,500	103,500
Edward Marlin, Ph.D.	VC 152623	43,344	43,344
Louis Rosenthal, MD	VC 160932	50,020	50,020
Patricia Salt, Ph.D.	VC 159558	45,675	45,675
Michael Schneider, Psy.D.	VC 163027	94,500	94,500
Natacha Sochat, MD MFA	VC 250055	72,384	72,384
Craig Stenslie, Ph.D.	VC 170136	40,005	40,005

Funding is available in the account titled Disability Determination Services for FY 16/17 as follows:

FY16	06-56-56-565510-40400000-046-500462	\$846,562.00
FY17	06-56-56-565510-40400000-046-500462	\$846,562.00

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
June 4, 2015  
Page Two

### Explanation

These requests are **sole source** because the vendors, identified above, have been providing these services for the Department for several years and possess the unique expertise required to complete disability determination medical decisions in an accurate and timely manner as mandated in Federal Regulation 20 CFR 404.1620. Training new vendors to perform these services could take up to nine (9) months which could cause significant delays in determining an individual's eligibility for disability benefits.

The Division of Career Technology and Adult Learning uses medical and psychological consultants to review and advise staff in the determination of eligibility for clients in the Vocational Rehabilitation program and to assist in the determination of eligibility for Social Security disability benefits. Per Federal Regulation 20 CFR 404.1620: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly." The chief medical and chief mental impairment consultants, in addition to these duties, resolve difficult medical issues and provide training. The consultants must maintain current licensure in the state.

The Division is in need of consultants to evaluate medical evidence and to determine its adequacy for making disability decisions. The consultant then prepares an assessment of the individual's functional limitations imposed by the impairment(s). They also provide consultation in the development of internal forms, reviewing the quality of examination reports of independent vendors who provide reports to the Division concerning clients, and provide consultation to the Division in service delivery. The consultants do not perform examinations or ever meet the disability applicant.

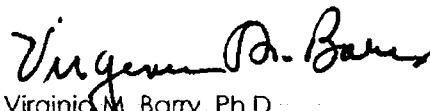
The Disability Determination Services (DDS) serves under the Division of Career Technology and Adult Learning at the Department of Education to ensure opportunity to have educational preparation and opportunity for employment rather residing solely in a beneficiary program within the Department of Health and Human Services. Forty-two percent of Vocational Rehabilitation clients are social security beneficiaries preparing for employment and potentially decreasing reliance on public benefits. Vocational Rehabilitation serves people with disabilities by providing services that lead to gaining and retaining employment.

Transition age youth with disabilities make up a large proportion of our client population. Students are referred to Vocational Rehabilitation while in high school and may receive post-secondary education, vocational training, career counseling as well as employment and job placement services ultimately leading to employment. Being situated in the Department of Education along with Disability Determination Service fosters a close working relationship with programs that best support the populations that we serve.

Permission is requested to accept the fee schedule proposed with longevity adjustments as shown on Exhibit B.

In the event that Federal funds no longer become available, General funds will not be requested to support this program.

Respectfully submitted,

  
Virginia M. Barry, Ph.D.  
Commissioner of Education



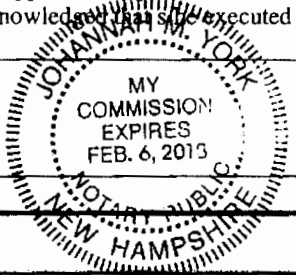
Subject: Medical Consultant **FORM NUMBER P-37 ( version 1/09)**

**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 Education, DDS</u>		1.2 State Agency Address <u>21 S. Fruit St., Suite 30, Concord, NH 03301</u>	
1.3 Contractor Name <u>Hugh Fairley, MD</u>		1.4 Contractor Address <u>182 Mansion Rd., Dunbarton, NH 03046</u>	
1.5 Contractor Phone Number <u>(603) 224-9401</u>	1.6 Account Number <u>565510-4040-046-500462</u>	1.7 Completion Date <u>June 30, 2017</u>	1.8 Price Limitation <u>\$157,878.00</u>
1.9 Contracting Officer for State Agency <u>Paul K. Leather, Deputy Commissioner of Education</u>		1.10 State Agency Telephone Number <u>603-271-7301</u>	
1.11 Contractor Signature <u>Hugh F. Fairley</u>		1.12 Name and Title of Contractor Signatory <u>HUGH F. FAIRLEY</u>	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>3/12/15</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>[Signature]</u> [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace <u>[Signature]</u>			
1.14 State Agency Signature <u>Virginia M. Barry</u>		1.15 Name and Title of State Agency Signatory <u>Virginia M. Barry, PhD. Commissioner of Education</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sara J. Kelly</u> Director, On: <u>5-26-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <u>[Signature]</u> On: <u>6/3/15</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   JF    
Date   3.12.15



**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.

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials

Date

JH  
3-12-15

## Exhibit A - Page 2

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials

AA

Date

3-12-15

## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials

Date

*[Handwritten Signature]*  
3-12-15

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$157,878.00 for the biennium - \$78,939.00 for FY'16 and \$78,939.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials: WFF

Date: 3-12-15

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials

WJS

Date

3-12-15

**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, Hugh Fairley, MD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this

12<sup>th</sup> day of March, 2015.

Hugh F. Fairley

Hugh Fairley, MD - Sole Proprietor

State of: New Hampshire

County of: Merrimack

On March 12, 2015, ~~2015~~, before the undersigned officer personally appeared the person identified in the forgoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.

Johanna M. York  
Notary Public/Justice of the Peace





## **CURRICULUM VITAE**

Hugh Fairley, MD

### **Professional Experience:**

State of NH, Disability Determination Service

Medical Consultant

Specialty: Family Medicine

Dr. Fairley's education and experiential background in Family Medicine qualifies him to provide medical consultation related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

General Practice

Concord, NH

Specialty: Family Medicine

General Practice

Winnipeg, Canada

### **Education:**

University College, Dublin

M.D., M.B., B.S.

Residencies in surgery and in Anesthesiology

### **Certification & Licensure:**

New Hampshire License #4504

Subject: Medical Consultant

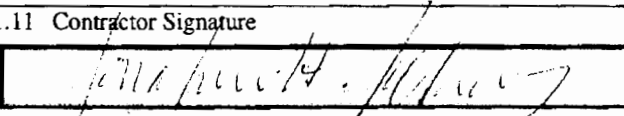
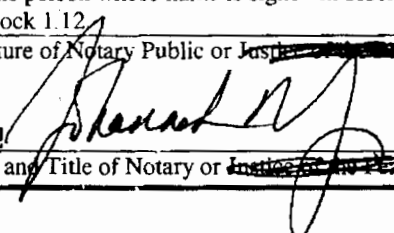
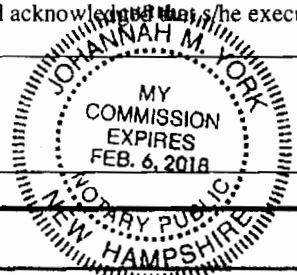
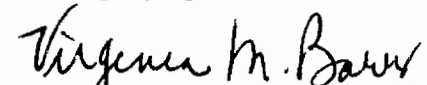
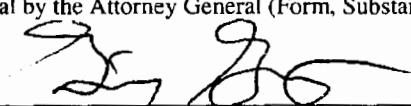
FORM NUMBER P-37 ( version 1/09)

**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 Education, DDS</u>		1.2 State Agency Address <u>21 S. Fruit St., Suite 30, Concord, NH 03301</u>	
1.3 Contractor Name <u>Jonathan Jaffe, MD</u>		1.4 Contractor Address <u>33 Locust Hill Rd., Goffstown, NH 03045</u>	
1.5 Contractor Phone Number <u>(603) 497-8001</u>	1.6 Account Number <u>565510-4040-046-500462</u>	1.7 Completion Date <u>June 30, 2017</u>	1.8 Price Limitation <u>\$252,000.00</u>
1.9 Contracting Officer for State Agency <u>Paul K. Leather, Deputy Commissioner of Education</u>		1.10 State Agency Telephone Number <u>603-271-7301</u>	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory <u>Jonathan Jaffe, MD</u>	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>3/13/15</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  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace <u></u>			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory <u>Virginia M. Barry, PhD, Commissioner of Education</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sara J. Kelly</u> Director, On: <u>5-26-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By:  On: <u>6/3/15</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   
Date 5/24/15

**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

Contractor Initials *MA*  
Date *3/15/15*

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.

Handwritten signature and date: 12/2/15

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials

Date

  
8/7/15

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials

Date

*AM*  
*1/31/15*

**Exhibit B**

**Payment Terms**

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials  
Date

*APJ*  
*5/12/15*



## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$252,000.00 for the biennium - \$126,000.00 for FY'16 and \$126,000.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials

Date

  
3/13/15

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials \_\_\_\_\_

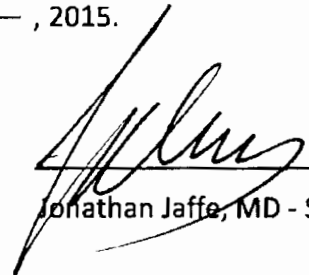
Date \_\_\_\_\_

*[Handwritten Signature]*  
*[Handwritten Date: 3/18/15]*

**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, Jonathan Jaffe, MD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this 13 day of March, 2015.

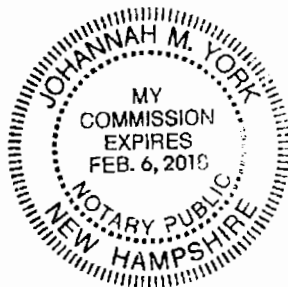
  
Jonathan Jaffe, MD - Sole Proprietor

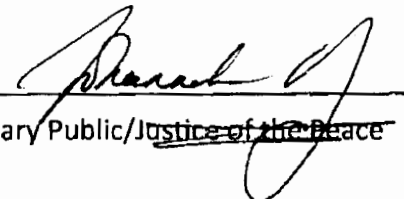
State of: New Hampshire

County of: Merrimack

On March 13, 2015, 2015, before the undersigned officer personally appeared the person identified in the forgoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.



  
Notary Public/Justice of the Peace

## CURRICULUM VITAE

Jonathan H Jaffe MD

### **Professional Experience:**

State of NH, Disability Determination Service  
Medical Consultant

Specialty: Family Practice

Dr. Jaffe's education and experiential background in Family Practice qualifies him to provide medical consultation related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

Rockingham County House of Corrections  
Medical Director  
Brentwood, NH

Strafford County House of Corrections  
Medical Director  
Dover, NH

### **Education:**

University of Illinois Medical School, Chicago, IL  
M.D., Family Practice

Yale University, New Haven, CT  
B.A.

Mac Neal Memorial Hospital, Berwyn, IL  
Residency in Family Practice

### **Certification & Licensure:**

New Hampshire License #5775

Subject:

Psychological Consultant

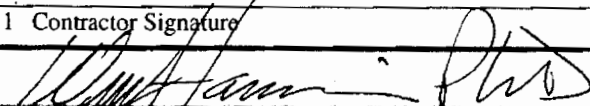
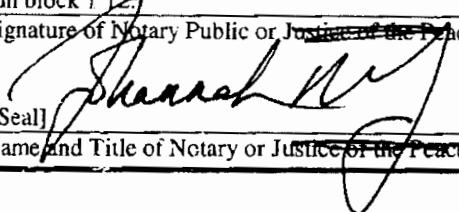
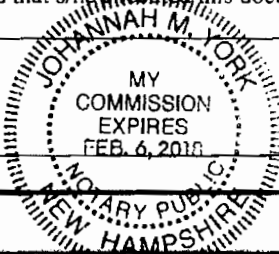
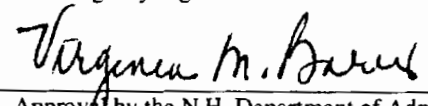
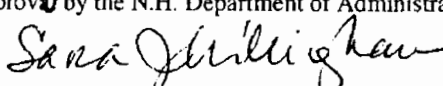
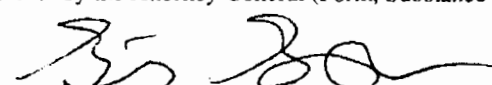
FORM NUMBER P-37 ( version 1/09)

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name NH Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name William J. Jamieson, PhD		1.4 Contractor Address 332 Walnut St., Manchester, NH 03104	
1.5 Contractor Phone Number (603) 669-4130	1.6 Account Number 565510-4040-046-500462	1.7 Completion Date June 30, 2017	1.8 Price Limitation \$51,660.00
1.9 Contracting Officer for State Agency Paul K. Leather, Deputy Commissioner of Education		1.10 State Agency Telephone Number 603-271-7301	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory WILLIAM J. JAMIESON, Ph.D	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>3/19/15</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  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Virginia M. Barry, PhD, Commissioner of Education	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By:  Director, On: 5-26-15			
1.17 Approval by the Attorney General (Form, Substance and Execution) By:  On: 6/3/15			
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.

**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

Contractor Initials *WJ*  
Date *11/3/19/2015*

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.



## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials

Date

*[Handwritten Signature]*  
*[Handwritten Date]* 3/19/2015

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials

Date

*WJ*  
*3/19/2015*

## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials  
Date

*WJ*  
*03/19/2015*

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$51,660.00 for the biennium - \$25,830.00 for FY'16 and \$25,830.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials

Date

*[Handwritten Signature]*  
1/3/19/2015

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials


Date

*WJ*  
*07/19/2015*

**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, William J. Jamieson, PhD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
19th day of MARCH, 2015.

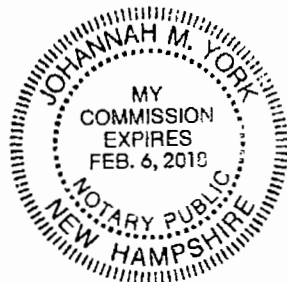
  
\_\_\_\_\_  
William J. Jamieson, PhD - Sole Proprietor

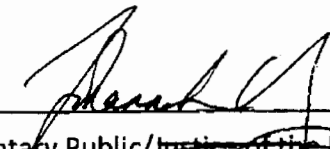
State of: New Hampshire

County of: Merrimack

On March 19, 2015, before the undersigned officer personally appeared the person identified in the foregoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.



  
\_\_\_\_\_  
Notary Public/Justice of the Peace

## CURRICULUM VITAE

William J Jamieson, PhD

### **Professional Experience:**

State of NH, Disability Determination Service  
Psychology Consultant

Specialty: Neuro-psychological exams

Dr. Jamieson's education and experiential background in Neuro-psychological exams qualifies him to provide psychological consultation related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

Northeast Psychiatric Associates  
Staff Psychologist

Great Manchester Mental Health Center  
Staff Psychologist

University of Michigan Hospital

### **Education:**

University of Michigan  
Ph.D., Psychology

Yale University, New Haven, CT  
Psychology B.A.

Boston Neurobehavioral Institute  
Postdoctoral-neuropsychology

### **Certification & Licensure:**

New Hampshire License #256

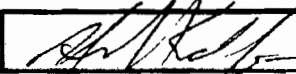
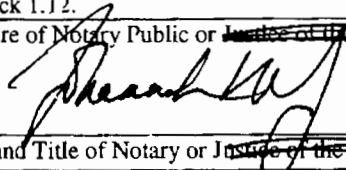
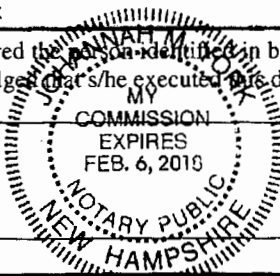
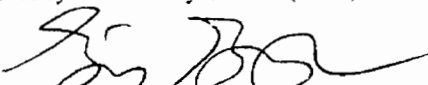
Subject: Psychological Consultant FORM NUMBER P-37 ( version 1/09)

**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 Education, DDS</u>		1.2 State Agency Address <u>21 S. Fruit St., Suite 30, Concord, NH 03301</u>	
1.3 Contractor Name <u>Nicholas Kalfas, PhD</u>		1.4 Contractor Address <u>PO Box 391, Alton, NH 03809</u>	
1.5 Contractor Phone Number <u>(603) 875-5490</u>	1.6 Account Number <u>565510-4040-046-500462</u>	1.7 Completion Date <u>June 30, 2017</u>	1.8 Price Limitation <u>\$149,730.00</u>
1.9 Contracting Officer for State Agency <u>Paul K. Leather, Deputy Commissioner of Education</u>		1.10 State Agency Telephone Number <u>603-271-7301</u>	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory <u>Nicholas S Kalfas, PhD</u>	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>3/12/15</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 <del>Judge of the Peace</del>  [Seal]			
1.13.2 Name and Title of Notary or <del>Judge of the Peace</del> <u></u>			
1.14 State Agency Signature <u>Virginia M. Barry</u>		1.15 Name and Title of State Agency Signatory <u>Virginia M. Barry, PhD. Commissioner of Education</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sana Millington</u> Director, On: <u>5-26-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By:  On: <u>6/3/15</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.

**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

Contractor Initials  
Date

*[Signature]*  
12/10/15

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.

## Exhibit A

### Scope of the Work:


Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials

Date

  
3/12/11

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials

Date

  
2/12/15

## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

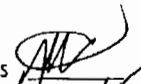
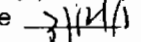
Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials

Date


## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$149,730.00 for the biennium - \$74,865.00 for FY'16 and \$74,865.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials

Date

  
3/12/15

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials \_\_\_\_\_

Date \_\_\_\_\_

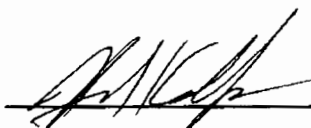
Handwritten signature and date: 3/12/15



**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, Nicholas Kalfas, PhD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
12<sup>th</sup> day of March, 2015.

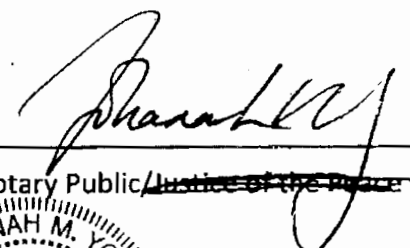

  
\_\_\_\_\_  
Nicholas Kalfas, PhD - Sole Proprietor

State of: New Hampshire

County of: Merrimack

On March 12, 2015, before the undersigned officer personally appeared the person identified in the forgoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.

  
\_\_\_\_\_  
Notary Public/~~Justice of the Peace~~  


## CURRICULUM VITAE

Nicholas Kalfas, Ph.D

### **Professional Experience:**

State of NH, Disability Determination Service

Chief Psychological Consultant

Specialty: Counseling

Dr. Kalfas's education and experiential background in Counseling qualifies him to provide psychological consultation related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616. (Medical or Psychological Consultants).

Independent Practice (full time)

Gilford Counseling Services

Village West

Gilford, NH

Area Director (CEO)

Dept of Mental Health

Haverhill/Newburyport Area

One Main St.

Merrimac, MA

Asst Superintendent for Children's Services

Bureau of Institutional Schools

Dept of Education

Hogan Regional Center, Box A

Hawthorne, MA

Community Evaluation and Rehab Clinic

Principal Psychologist

Hogan Regional Center

Hawthorne, MA

Principal Psychologist

Adolescent Unit

Hogan Regional Center

Hawthorne, MA

### **Education:**

PhD – University of Arizona, Tucson; Counseling and Guidance/Education Psychology

Med – College of Education, University of NH, Durham; Counselor Education

BA – Belknap College, Center Harbor, NH; Psychology

### **Certification and Licensure:**

New Hampshire License #121

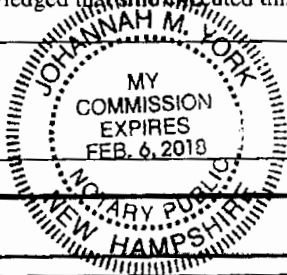
Subject: Psychological Consultant **FORM NUMBER P-37 ( version 1/09)**

**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 Education, DDS</u>		1.2 State Agency Address <u>21 S. Fruit St., Suite 30, Concord, NH 03301</u>	
1.3 Contractor Name <u>Laura Landerman, PhD</u>		1.4 Contractor Address <u>18 Forrence Dr., Hollis, NH 03049</u>	
1.5 Contractor Phone Number <u>(603) 689-4191</u>	1.6 Account Number <u>565510-4040-046-500462</u>	1.7 Completion Date <u>June 30, 2017</u>	1.8 Price Limitation <u>\$183,000.00</u>
1.9 Contracting Officer for State Agency <u>Paul K. Leather, Deputy Commissioner of Education</u>		1.10 State Agency Telephone Number <u>603-271-7301</u>	
1.11 Contractor Signature <u>Laura Landerman PhD</u>		1.12 Name and Title of Contractor Signatory <u>Laura M Landerman PhD</u>	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>3/19/15</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 she 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>Johanna M. York</u>			
1.13.2 Name and Title of Notary or Justice of the Peace <u>Johanna M. York</u>			
1.14 State Agency Signature <u>Virginia M. Barry</u>		1.15 Name and Title of State Agency Signatory <u>Virginia M. Barry, PhD. Commissioner of Education</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sara Helleighan</u> Director, On: <u>5-26-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <u>[Signature]</u> On: <u>6/3/15</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.

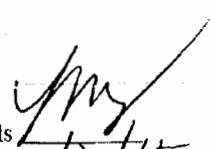
5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

**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.

  
3/29/15

**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

Contractor Initials *MS*  
Date *3/19/15*

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.

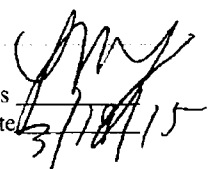
**20. THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

**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.

Handwritten signature and date: 3/18/15

## Exhibit A

### Scope of the Work:

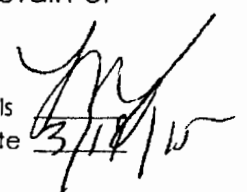
Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials

Date

  
3/18/15

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials

Date

*JMP*  
3/19/13



**Exhibit B**

Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

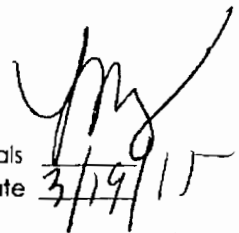
Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials

Date


Handwritten signature and date. The signature is written in black ink and appears to be 'YMS'. Below the signature, the date '3/19/11' is written in black ink.

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$183,000.00 for the biennium - \$91,500.00 for FY'16 and \$91,500.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials  
Date

  
3/19/18

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination


This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials

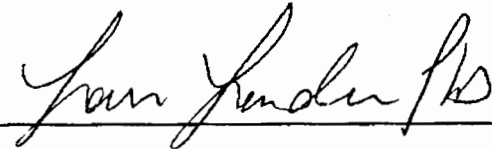
Date

  
3/19/15

STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY

I, Laura Landerman, PhD, as sole proprietor of my business, certify that I an authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
19 day of March, 2015.

  
\_\_\_\_\_  
Laura Landerman, PhD - Sole Proprietor

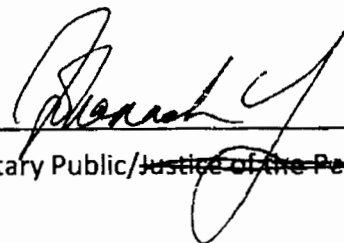
State of: New Hampshire

County of: Merrimack

On March 19, 2015, before the undersigned officer personally appeared the person identified in the forgoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the the foregoing certificate.

In witness whereof, I set my hand.



  
\_\_\_\_\_  
Notary Public/~~Justice of the Peace~~

## CURRICULUM VITAE

Laura M. Landerman, Ph.D.

### **Professional Experience:**

State of NH, Disability Determination Service  
Psychological Consultant

Specialty: Child/Adolescent Psychology

Dr. Landerman's education and experiential background in Child/Adolescent Psychology qualifies her to provide psychological consultation related to evaluating evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

Lamora Psychological Associates  
Nashua, New Hampshire

Slatoff & Ward Psychological Associates  
(currently known as Foundation Behavioral Health Associates)  
Nashua, NH

Charter Brookside Hospital/Northeast Psychiatric Associates  
Nashua, NH

Mount Sinai Hospital  
Dept of Child and Adolescent Psychiatry  
Hartford, CT

### **Education:**

Pennsylvania State University  
University Park, Pennsylvania  
Doctor in Psychology

University of Pittsburgh  
Pittsburgh, Pennsylvania  
Master of Psychiatric Social Work

Pennsylvania State University  
University Park, Pennsylvania  
B.A. - Abnormal and Developmental Psychology

### **Certification & Licensure**

New Hampshire License #478

Subject: Medical Consultant


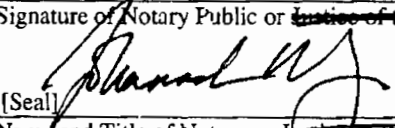

FORM NUMBER P-37 ( version 1/09)

**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 Education, DDS</u>		1.2 State Agency Address <u>21 S. Fruit St., Suite 30, Concord, NH 03301</u>	
1.3 Contractor Name <u>John MacEachran, MD</u>		1.4 Contractor Address <u>402 Spring Hill Rd., Sharon, NH 03458</u>	
1.5 Contractor Phone Number <u>(603) 942-6113</u>	1.6 Account Number <u>565510-4040-046-500462</u>	1.7 Completion Date <u>June 30, 2017</u>	1.8 Price Limitation <u>\$207,000.00</u>
1.9 Contracting Officer for State Agency <u>Paul K. Leather, Deputy Commissioner of Education</u>		1.10 State Agency Telephone Number <u>603-271-7301</u>	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory <u>John MacEachran MD</u>	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>3/23/15</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  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace <u></u>			
1.14 State Agency Signature <u>Virginia M. Barry</u>		1.15 Name and Title of State Agency Signatory <u>Virginia M. Barry, PhD. Commissioner of Education</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sara Hillygbean</u> Director, On: <u>5-26-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <u>[Signature]</u> On: <u>6/3/15</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.

**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

Contractor Initials                       
Date 3/23/15



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.

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials                       
Date 3/23/15

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

**Exhibit B**

**Payment Terms**

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials JH  
Date 3/23/15

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$207,000.00 for the biennium - \$103,500.00 for FY'16 and \$103,500.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials

Date

*Jah*  
3/23/15

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

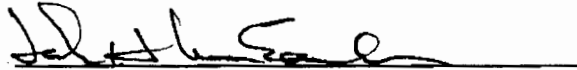
Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials SK  
Date 3/23/15

STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY

I, John MacEachran, MD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this 23rd day of March, 2015.



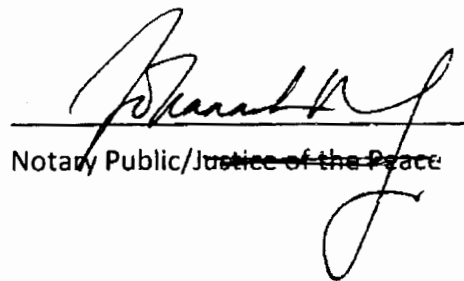
John MacEachran, MD - Sole Proprietor

State of: New Hampshire

County of: Merrimack

On March 23, 2015, before the undersigned officer personally appeared the person identified in the foregoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.



Notary Public/Justice of the Peace

## Curriculum Vitae

John H. MacEachern, MD

### Professional Experience:

State of NH, Disability Determination Service  
Chief Medical Consultant  
Specialty: Family Practice

Dr. MacEachern's education and experiential background in Family Practice qualifies him to provide medical consultation related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

Monadnock Community Hospital, Peterborough, NH  
Emergency Department Staff Physician

Private Practice, Family Practice, Jaffrey, NH  
Monadnock Community Hospital, Peterborough, NH

### Education:

Dartmouth Medical School, Hanover NH  
Doctor of Medicine

Residency - Milton S. Hershey Medical Center  
PA State University  
Hershey Pennsylvania  
Dept of Family Medicine

Dartmouth College, Hanover NH  
B.A. - History

### Certification and Licensure:

New Hampshire License #6244



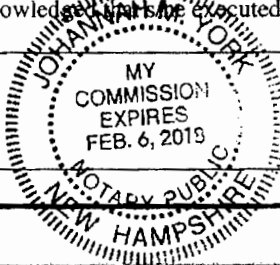
Subject: Psychological Consultant FORM NUMBER P-37 ( version 1/09)

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name <span style="border: 1px solid black; padding: 2px;">NH Department of Education, DDS</span>		1.2 State Agency Address <span style="border: 1px solid black; padding: 2px;">21 S. Fruit St., Suite 30, Concord, NH 03301</span>	
1.3 Contractor Name <span style="border: 1px solid black; padding: 2px;">Edward Martin, PhD</span>		1.4 Contractor Address <span style="border: 1px solid black; padding: 2px;">PO Box 68, Littleton, NH 03561</span>	
1.5 Contractor Phone Number <span style="border: 1px solid black; padding: 2px;">(603) 444-5951</span>	1.6 Account Number <span style="border: 1px solid black; padding: 2px;">565510-4040-046-500462</span>	1.7 Completion Date <span style="border: 1px solid black; padding: 2px;">June 30, 2017</span>	1.8 Price Limitation <span style="border: 1px solid black; padding: 2px;">\$86,688.00</span>
1.9 Contracting Officer for State Agency <span style="border: 1px solid black; padding: 2px;">Paul K. Leather, Deputy Commissioner of Education</span>		1.10 State Agency Telephone Number <span style="border: 1px solid black; padding: 2px;">603-271-7301</span>	
1.11 Contractor Signature <span style="border: 1px solid black; padding: 2px;"><i>Edward G. Martin, PhD</i></span>		1.12 Name and Title of Contractor Signatory <span style="border: 1px solid black; padding: 2px;">Edward G. Martin, PhD</span>	
1.13 Acknowledgement: State of <span style="border: 1px solid black; padding: 2px;">NH</span> , County of <span style="border: 1px solid black; padding: 2px;">Merrimack</span> On <span style="border: 1px solid black; padding: 2px;">3/11/15</span> , 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 he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace <span style="border: 1px solid black; padding: 2px;"><i>[Signature]</i></span> [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace <span style="border: 1px solid black; padding: 2px;"> </span>			
1.14 State Agency Signature <span style="border: 1px solid black; padding: 2px;"><i>Virginia M. Barry</i></span>		1.15 Name and Title of State Agency Signatory <span style="border: 1px solid black; padding: 2px;">Virginia M. Barry, PhD. Commissioner of Education</span>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <span style="border: 1px solid black; padding: 2px;"><i>Sara Millingham</i></span> Director, On: <span style="border: 1px solid black; padding: 2px;">5-26-15</span>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <span style="border: 1px solid black; padding: 2px;"><i>[Signature]</i></span> On: <span style="border: 1px solid black; padding: 2px;">6/3/15</span>			
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 EDM  
Date 3/11/15

## 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.

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials SPM  
Date 3/11/16

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials EDM  
Date 3/11/15

## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

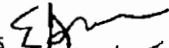
Contractor Initials EDM  
Date 9/14/15

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$86,688.00 for the biennium - \$43,344.00 for FY'16 and \$43,344.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials

  
Date 3/11/15

Date



**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

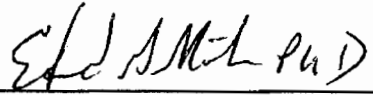
Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials CDM  
Date 3/11/15

**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, Edward Martin, PhD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
11<sup>th</sup> day of MARCH, 2015.

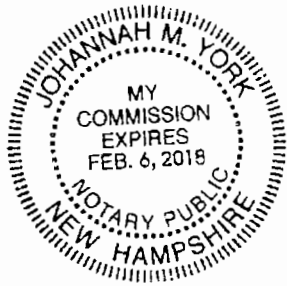
  
\_\_\_\_\_  
Edward Martin, PhD - Sole Proprietor

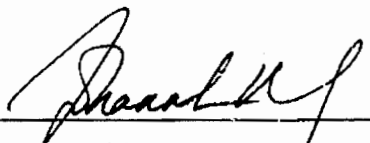
State of: New Hampshire

County of: Merrimack

On March 11, 2015, before the undersigned officer personally appeared the person identified in the foregoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the the foregoing certificate.

In witness whereof, I set my hand.



  
\_\_\_\_\_  
Notary Public/Justice of the Peace

## CURRICULUM VITAE

Edward G. Martin, Ph.D

### **Professional Experience:**

State of NH, Disability Determination Service

Psychological Consultant

Specialty: Clinical Psychologist

Dr. Martin's education and experiential background in Clinical Psychologist qualifies him to provide psychological consultation related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

Private Practice

Littleton, NH

Sacopee Valley Health Center

Director - Mental Health Services

Kezar Falls, ME

Western Maine Counseling Service, Inc.

Clinical Director

Bridgton, ME

VA Medical Center

Staff Psychologist

Brockton, MA

VA Medical Center

Staff Psychologist

Perry Point, MD

### **Education:**

University of Vermont – Ph.D .

PhD. Clinical Psychology

University of Maine

B.A. – Psychology

### **Certification & Licensure:**

New Hampshire License #301

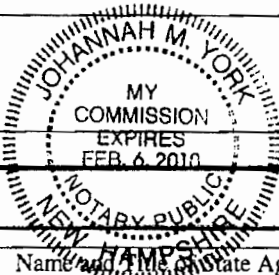
Subject: Medical Consultant FORM NUMBER P-37 ( version 1/09)

**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 Education, DDS</u>		1.2 State Agency Address <u>21 S. Fruit St., Suite 30, Concord, NH 03301</u>	
1.3 Contractor Name <u>Louis Rosenthal, MD</u>		1.4 Contractor Address <u>26 Dwinell Dr., Concord, NH 03301</u>	
1.5 Contractor Phone Number <u>(603) 228-0087</u>	1.6 Account Number <u>565510-4040-046-500462</u>	1.7 Completion Date <u>June 30, 2017</u>	1.8 Price Limitation <u>\$100,040.00</u>
1.9 Contracting Officer for State Agency <u>Paul K. Leather, Deputy Commissioner of Education</u>		1.10 State Agency Telephone Number <u>603-271-7301</u>	
1.11 Contractor Signature <u>Louis E Rosenthal MD</u>		1.12 Name and Title of Contractor Signatory <u>LOUIS E. ROSENTHALL MD</u>	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>3/20/15</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>[Signature]</u> [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace <u>[Blank]</u>			
1.14 State Agency Signature <u>Virginia M. Barry</u>		1.15 Name and Title of State Agency Signatory <u>Virginia M. Barry, PhD. Commissioner of Education</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sara J. McHughan</u> Director, On: <u>5-26-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <u>[Signature]</u> On: <u>6/3/15</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 LR  
Date 20 MAR 2015

**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

Contractor Initials LR  
Date 20 Mar 2015

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.

Contractor Initials LR  
Date 20 MAR 2013

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials

Date

LR  
20 MAR  
2015



**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials  
Date

LR  
20 MAR  
2015

**Exhibit B**

**Payment Terms**

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials  
Date

*LR*  
*20 MAR 2015*

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$100,040.00 for the biennium - \$50,020.00 for FY'16 and \$50,020.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials

Date

UR  
30 MAR  
2015

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials

Date

LR  
20 MAR  
2015

STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY

I, Louis Rosenthal, MD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
20<sup>th</sup> day of MARCH, 2015.

Louis Rosenthal

Louis Rosenthal, MD - Sole Proprietor

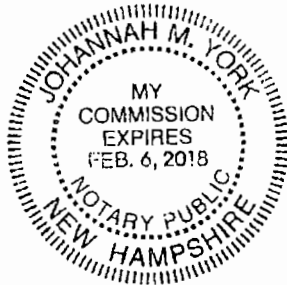
State of: New Hampshire

County of: Merrimack

On March 20, 2015, before the undersigned officer personally appeared the person identified in the forgoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the the foregoing certificate.

In witness whereof, I set my hand.

Johannah M. York  
Notary Public/Justice of the Peace



## CURRICULUM VITAE

Louis E Rosenthal, MD

### **Professional Experience:**

State of NH, Disability Determination Service

Medical Consultant

Specialty: Family Practice, Geriatrics

Dr. Rosenthal's education and experiential background in Family Practice & Geriatrics qualifies him to provide medical consultation related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

Family Practice

Merrimack, NH

US Army Medical Corps

NH Odd Fellows Home

Medical Director

Concord, NH

NH Academy of Family Physicians

Education Chairman

### **Education:**

Penn State University

B.S.

Boston University M.D.

Internship – Maine Medical Center

Portland, ME

### **Certification & Licensure:**

New Hampshire License #5567

Subject: Psychological Consultant

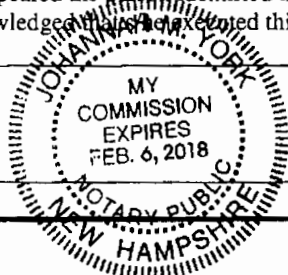
FORM NUMBER P-37 ( version 1/09)

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

GENERAL PROVISIONS

1. IDENTIFICATION.

Form with fields for State Agency Name, Contractor Name, Address, Phone, Account Number, Completion Date, Price Limitation, Signatures, and Approvals.



**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 PS  
Date 3/19/15



**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

Contractor Initials PS  
Date 3/19/15

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.

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials

Date

PS  
3/19/5

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials JS  
Date 3/19/15

## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$91,350.00 for the biennium - \$45,675.00 for FY'16 and \$45,675.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials

Date

PS  
3/19/15

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials PS  
Date 3/19/15

STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY

I, Patricia Salt, PhD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this 19<sup>th</sup> day of March, 2015.

Patricia Salt, PhD  
Patricia Salt, PhD - Sole Proprietor

State of: New Hampshire

County of: Merrimack

On March 19, 2015, before the undersigned officer personally appeared the person identified in the forgoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the the foregoing certificate.

In witness whereof, I set my hand.



Johannah M. York  
Notary Public/~~State of New Hampshire~~



## CURRICULUM VITAE

Patricia Salt, PhD

### **Professional Experience:**

State of NH, Disability Determination Service

Psychological Consultant

Specialty: Clinical Psychology

Dr. Salt's education and experiential background in Clinical Psychology qualifies her to provide psychological consultation related to evaluating evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616. (Medical or Psychological Consultants).

Private Practice

Merrimack, NH

Berke and Associates

Consulting Psychologist

### **Education:**

Boston University

Ph.D. Psychology

Boston University

M.A. Psychology

Antioch College

B.A. Psychology

### **Certification & Licensure:**

New Hampshire, License #545

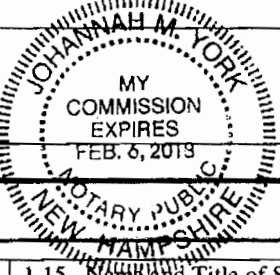
Subject: Psychological Consultant FORM NUMBER P-37 ( version 1/09)

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name NH Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name Michael A. Schneider, PsyD		1.4 Contractor Address 186 Roberts Hill Rd., Claremont, NH 03743	
1.5 Contractor Phone Number (603) 542-8993	1.6 Account Number 565510-4040-046-500462	1.7 Completion Date June 30, 2017	1.8 Price Limitation \$189,000.00
1.9 Contracting Officer for State Agency Paul K. Leather, Deputy Commissioner of Education		1.10 State Agency Telephone Number 603-271-7301	
1.11 Contractor Signature <i>[Signature]</i>		1.12 Name and Title of Contractor Signatory Michael A. Schneider, Psychologist	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>3/13/15</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 <i>[Signature]</i> [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace  			
1.14 State Agency Signature <i>Virginia M. Barry</i>		1.15 Name and Title of State Agency Signatory Virginia M. Barry, PhD, Commissioner of Education	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <i>Sana Hillerghian</i> Director, On: <u>5-26-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <i>[Signature]</i> On: <u>6/3/15</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 M. O.  
Date 3/13/15

**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

Contractor Initials 3/13/15 mmj  
Date 3/13/15

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.

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials mdp  
Date 3/13/15

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials M. J. [Signature]  
Date 3/12/12

## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials *M.A.R.*  
Date *3/13/15*



## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$189,000.00 for the biennium - \$94,500.00 for FY'16 and \$94,500.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials m.d.a.  
Date 3/13/15

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

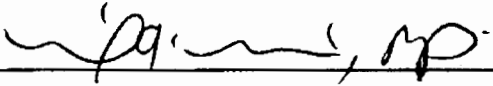
Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials M.d.A.  
Date 3/13/15

**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, Michael A. Schneider, PsyD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
13 day of March, 2015.

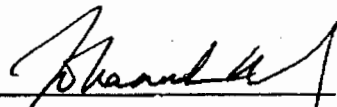
  
\_\_\_\_\_  
Michael A. Schneider, PsyD - Sole Proprietor

State of: New Hampshire

County of: Merrimack

On March 13, 2015, before the undersigned officer personally appeared the person identified in the foregoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.

  
\_\_\_\_\_  
Notary Public/~~Justice of the Peace~~



## CURRICULUM VITAE

Michael A. Schneider, PsyD

### **Professional Experience:**

State of NH, Disability Determination Service  
Psychological Consultant  
Specialty: Clinical Psychology, School Psychology

Dr. Schneider's education and experiential background in Clinical Psychology & School Psychology qualifies him to provide psychological consultation related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

Private Practice  
Claremont, NH

New Hampshire Hospital  
Consulting Psychologist

Warren D. Fitzgerald & Assoc.  
Group Practice

### **Education:**

Hahnemann Medical University & Hospital, Philadelphia, PA  
Psy.D. Clinical Psychology

Hahnemann Medical University & Hospital, Philadelphia, PA  
M.S. Clinical Psychology

Herbert H. Lehman College, Bronx, NY  
B.A. History

### **Certification & Licensure:**

Licensed Psychologist NH, #261  
Licensed Psychologist VT, #284  
Licensed Psychologist CO, #3538

Subject:

Medical Consultant

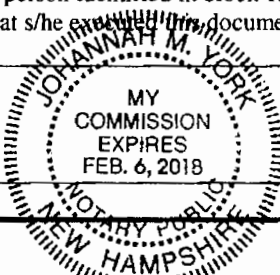
FORM NUMBER P-37 ( version 1/09)

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name NH Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name Natacha Sochat, MD MFA		1.4 Contractor Address 358 Quaker St., Wearne, NH 03281	
1.5 Contractor Phone Number (603) 529-5907	1.6 Account Number 565510-4040-046-500462	1.7 Completion Date June 30, 2017	1.8 Price Limitation \$144,768.00
1.9 Contracting Officer for State Agency Paul K. Leather, Deputy Commissioner of Education		1.10 State Agency Telephone Number 603-271-7301	
1.11 Contractor Signature <i>Natacha Sochat</i>		1.12 Name and Title of Contractor Signatory Natacha Sochat MD MFA	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>3/13/15</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 <del>Justice of the Peace</del> <i>[Signature]</i> [Seal]			
1.13.2 Name and Title of Notary or <del>Justice of the Peace</del> [Blank]			
1.14 State Agency Signature <i>Virginia M. Barry</i>		1.15 Name and Title of State Agency Signatory Virginia M. Barry, PhD. Commissioner of Education	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <i>Sara Jullighan</i> Director, On: <u>5-26-15</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <i>[Signature]</i> On: <u>6/3/15</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.

**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

Contractor Initials   
Date 3/13/2005

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.



## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials

Date *NS*  
*3/13/2015*

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

Contractor Initials

*B*

Date 3/13/2015

## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.

Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials

Date

*AS*  
*3/13-2015*

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$144,768.00 for the biennium - \$72,384.00 for FY'16 and \$72,384.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials

Date 3/13/2015

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials

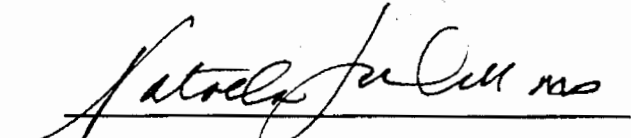
Date

*AS*  
3/13/2015

STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY

I, Natacha Sochat, MD MFA, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this  
13<sup>th</sup> day of March, 2015.

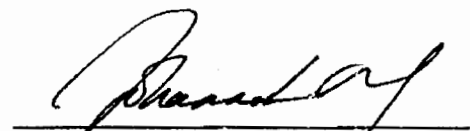
  
\_\_\_\_\_  
Natacha Sochat, MD MFA - Sole Proprietor

State of: New Hampshire

County of: Merrimack

On March 13, 2015, 2015, before the undersigned officer personally appeared the person identified in the forgoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the foregoing certificate.

In witness whereof, I set my hand.

  
\_\_\_\_\_  
Notary Public/~~Notary Public~~



## **CURRICULUM VITAE**

Natacha Villamia Sochat MD MFA

### **Professional Experience:**

Medical Director Greater Nashua Public Health and Community Services  
Metrowest Medical Center Department Emergency Medicine  
Senior Staff Emergency Medicine Physician, Lawrence General  
Chief Resident Medicine Carney Hospital  
Carney Hospital Department of Medicine  
Department of Anesthesiology and Critical Care

### **Education:**

Board Eligible Internal Medicine  
MFA Tufts University/School of the Museum of Fine Arts Boston  
Boston University School of Medicine M.D.  
Cedars Sinai Medical Center and VA Wadsworth Medical Center  
Carney Hospital  
Biology Boston University B.A.

### **Certification & Licensure:**

New Hampshire Board of Medicine  
National Board Medical Examiners

New Hampshire License #13359

Subject: Psychological Consultant

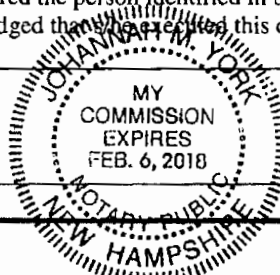
FORM NUMBER P-37 ( version 1/09)

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name NH Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name Craig E. Stenslie, PhD.		1.4 Contractor Address 10 Bayview Rd., Durham, NH 03824	
1.5 Contractor Phone Number (603) 749-0992	1.6 Account Number 565510-4040-046-500462	1.7 Completion Date June 30, 2017	1.8 Price Limitation \$80,010.00
1.9 Contracting Officer for State Agency Paul K. Leather, Deputy Commissioner of Education		1.10 State Agency Telephone Number 603-271-7301	
1.11 Contractor Signature <i>[Signature]</i>		1.12 Name and Title of Contractor Signatory Craig E. Stenslie, PhD. Consultant	
1.13 Acknowledgement: State of NH, County of Merrimack On 3/19/15, 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 he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace <i>[Signature]</i> (Seal)			
1.13.2 Name and Title of Notary or Justice of the Peace <i>[Signature]</i>			
1.14 State Agency Signature <i>Virginia M. Barry</i>		1.15 Name and Title of State Agency Signatory Virginia M. Barry, PhD. Commissioner of Education	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <i>Sara Milligan</i> Director, On: 5-26-15			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <i>[Signature]</i> On: 6/3/15			
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   
Date 3/14/15

**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

Contractor Initials   
Date 3/19/15

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.

## Exhibit A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

In the role of Medical/Psychological Consultant, the contractor shall:

- Evaluate medical and psychological evidence and determine its adequacy for making a disability decision.
- Assess the severity of impairments and describe the functional limitations imposed by the impairment(s).
- Determine if an individual's medical/psychological impairment(s) is severe enough to meet the requirements set forth by Social Security regulations.
- Reconcile conflicting evidence in the file.
- Provide reasoning and thought process followed in analysis of the evidence (medical records from treating sources, consultative examinations purchased by the DDS, school records, claimant supplied information, mental health therapy records, etc.) in assessing the individual's residual functional capacity.
- Provide guidance and advice relating to medical issues and whether additional evidence is needed and what specialty or specific test to purchase.
- Contact treating physicians or examining sources as needed to obtain or clarify medical evidence.

Contractor Initials



Date

3/17/15

**Exhibit A - Page 2**

- Attend required training.
- Conduct medical training of adjudicative personnel to insure understanding of medical content of the evidence.
- Assist with training of new disability adjudicators and periodic training of the staff.
- Medical consultants must maintain a current license in the state of work. Licensure requires continuing education.

## Exhibit B

### Payment Terms

In consideration of the services to be performed by the contractor, the State agrees to pay Contractor in accordance with the hourly rate payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2017.


Consultants will submit an invoice for payment twice per month for work performed from the 1st of a month thru the 15th and the second invoice for the 16th through the end of the month.

Billable DDS work hours is time spent on DDS claims as identified in Exhibit A. Lunch time and any time not spent performing actual DDS work is to be excluded.

First 12 months	\$55.00
Second year	\$58.00
After 5 years	\$61.00
After 10 years	\$63.00
Chief	\$69.00

Contractor Initials


Date

  
3/19/15

## Exhibit C

### Terms and Conditions:

1. Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the Contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State is \$80,010.00 for the biennium - \$40,005.00 for FY'16 and \$40,005.00 for FY'17.
2. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
3. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
4. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
5. Any reduction in available work on a given day, the State may suspend work for the day.
6. The number of hours of work performed weekly is an "as needed" basis.

Contractor Initials   
Date 3/19/15

**Exhibit C - Page 2**

**General Provisions:**

Conflicts of Interest

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Consultant will recuse him/herself if a conflict exists.

Insurance

Insurance as referenced in #14 is waived.

Termination

This agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This agreement may be terminated at any time by either party without cause.

In the event that the Contractor fails to comply with case processing time, mandated security compliance, case consultation or case assessment policies, the Contract may be terminated by the DOE immediately upon notice to the Contractor.

Account Number: 06-56-56-565510-40400000-046-500462

Contractor Initials   
Date 3/18/15

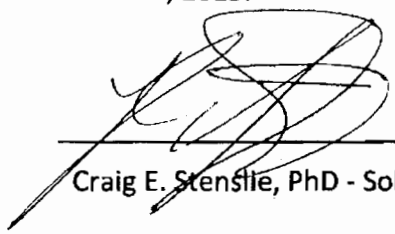


**STATE OF NEW HAMPSHIRE  
SOLE SOURCE CERTIFICATE OF AUTHORITY**

I, Craig E. Stenslie, PhD, as sole proprietor of my business, certify that I am authorized to enter into contract with the State of New Hampshire on behalf of myself.

In witness whereof, I have set my hand as the sole proprietor this

19 day of March, 2015.

  
\_\_\_\_\_  
Craig E. Stenslie, PhD - Sole Proprietor

State of: New Hampshire

County of: Merrimack

On 3/19, 2015, before the undersigned officer personally appeared the person identified in the forgoing certificate known to me (or satisfactorily proven) to be the sole proprietor in the foregoing certificate and acknowledged that he executed the the foregoing certificate.

In witness whereof, I set my hand.



  
\_\_\_\_\_  
Notary Public/~~Justice of the Peace~~

## CURRICULUM VITAE

Craig E. Stenslie, Ph.D.

### **Professional Experience:**

State of NH, Disability Determination Service  
Psychological Consultant

Specialty: Clinical Psychology, Neuropsychology

Dr. Stenslie's education and experiential background in Clinical Psychology & Neuropsychology qualifies him to provide psychological consultation related to evaluating medical evidence and providing an assessment of function for DDS disability claims per CFR § 404.1616.( Medical or Psychological Consultants).

Strafford Guidance Center, Dover, NH  
Manager of Satellite Outpatient/Outpatient Psychotherapist

Human Nutrition Laboratory, Grand Forks, ND  
Research Assistant/Staff Psychologist

Pennsylvania State University  
Teaching Assistant

University of North Dakota  
Research Assistant

### **Education:**

PhD – Pennsylvania State University, University Park, PA  
Clinical Psychology

M.S. – Pennsylvania State University, University Park, PA  
Clinical Psychology

B.A. – University of North Dakota, Grand Forks, ND  
Psychology Major

### **Certification & Licensure:**

New Hampshire #355

## § 404.1616. Medical or psychological consultants.

(a) *What is a medical consultant?* A medical consultant is a person who is a member of a team that makes disability determinations in a State agency, as explained in § 404.1615, or who is a member of a team that makes disability determinations for us when we make disability determinations ourselves.

(b) *What qualifications must a medical consultant have?* A medical consultant must be an acceptable medical source identified in § 404.1513(a)(1) or (a)(3) through (a)(5); that is, a licensed physician (medical or osteopathic), a licensed optometrist, a licensed podiatrist, or a qualified speech-language pathologist. The medical consultant must meet any appropriate qualifications for his or her specialty as explained in § 404.1513(a).

(c) *Are there any limitations on what medical consultants who are not physicians can evaluate?* Medical consultants who are not physicians are limited to evaluating the impairments for which they are qualified, as described in § 404.1513(a). Medical consultants who are not physicians also are limited as to when they may serve as a member of a team that makes a disability determination. For example, a speech-language pathologist who is a medical consultant in a State agency may be a member of a team that makes a disability determination in a claim only if a speech or language impairment is the only impairment in the claim or if there is a combination of a speech or language impairment with another impairment but the speech or language impairment alone would justify a finding of disability. In all other cases, a physician will be a member of the team that makes a disability determination, except in cases in which this function may be performed by a psychological consultant as discussed in paragraph (f) of this section and § 404.1615 (d).

(d) *What is a psychological consultant?* A psychological consultant is a psychologist who has the same responsibilities as a medical consultant explained in paragraph (a) of this section, but who can evaluate only mental impairments.

(e) *What qualifications must a psychological consultant have?* A psychological consultant used in cases where there is evidence of a mental impairment must be a qualified psychologist. For disability program purposes, a psychologist will not be considered qualified unless he or she:

(1) Is licensed or certified as a psychologist at the independent practice level of psychology by the State in which he or she practices; and

(2)(i) Possesses a doctorate degree in psychology from a program in clinical psychology of an educational institution accredited by an organization recognized by the Council on Post-Secondary Accreditation; or

(ii) Is listed in a national register of health service providers in psychology which the Commissioner of Social Security deems appropriate; and

(3) Possesses 2 years of supervised clinical experience as a psychologist in health service, at least 1 year of which is post masters degree.

(f) *Are there any limitations on what a psychological consultant can evaluate?* Psychological consultants are limited to the evaluation of mental impairments, as explained in § 404.1615(d). Psychological consultants also are limited as to when they can serve as a member of a team that makes a disability determination. They may do so only when a mental impairment is the only impairment in the claim or when there is a combination of a mental impairment with another impairment but the mental impairment alone would justify a finding of disability.

[65 FR 34958, June 1, 2000, as amended at 71 FR 16445, Mar. 31, 2006; 76 FR 24808, May 3, 2011]