



Jeffrey A. Meyers
Commissioner

Deborah D. Scheetz
Director

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF LONG TERM SUPPORTS AND SERVICES

105 PLEASANT STREET, CONCORD, NH 03301
603-271-5034 1-800-852-3345 Ext. 5034
Fax: 603-271-5166 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

December 4, 2019

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

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division of Long Term Supports and Services, to enter into an agreement with Mercer Health & Benefits LLC (Vendor # TBD), 2325 East Camelback Road, Phoenix, AZ 85016, to provide consulting services to define requirements and deliverables for an Electronic Visit Verification system as required by the Centers for Medicare and Medicaid Services, in an amount not to exceed \$275,380, effective upon Governor and Executive Council approval, through September 30, 2020. 100% Federal Funds.

Funds are available in the following account for State Fiscal Year 2020 and 2021, with authority to adjust budget line items within the price limitation and adjust encumbrances between state fiscal years through the Budget Office, if needed and justified.

05-95-48-481010-8920 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: ELDERLY & ADULT SVCS DIV, GRANTS FOR SOCIAL SVC PROG, MONEY FOLLOWS THE PERSON

State Fiscal Year	Class/Account	Class Title	Job Number	Total Amount
2020	102-500731	Contracts for Prog Svc	48130475	\$154,440
2021	102-500731	Contracts for Prog Svs	48130475	\$120,940
			Total	\$275,380

EXPLANATION

The purpose of this request is to ensure consulting services are available to define requirements and deliverables for an Electronic Visit Verification system in order to ensure the requirements of Section 12006(a) of the 21st Century Cures Act is met when the Department publishes the future Request for Proposals for an Electronic Visit Verification system.

The Contractor will conduct stakeholder interviews with providers, recipients, family caregivers, Managed Care Organizations, and Department staff. The Contractor will also research and analyze all necessary information regarding Electronic Visit Verification technology and business practices available in the marketplace. The Contractor will utilize the data and

information gathered to define the Department's functional and non-functional requirements, which will be used to develop a Request for Proposals for an Electronic Visit Verification system that meets the requirements of the 21st Century Cures Act.

The 21st Century Cures Act as signed into law on December 13, 2016 requires that all states implement an Electronic Visit Verification system for Medicaid-funded Personal Care Services provided in the home by January 1, 2020, and for Home Health Services by January 1, 2023. The Department applied for and was granted a good faith exemption request from the Centers for Medicare and Medicaid Services to delay the implementation until January 1, 2021. The Department must identify and contract with a qualified vendor to provide the software, and possibly the hardware, needed to meet the 21st Century Cures Act requirements for in-home care visit verifications. The Department is currently in the process of working with service providers to evaluate the optimal approach, and to develop requirements for the technology.

The Centers for Medicare and Medicaid Services has identified that an Electronic Visit Verification system must verify the type of service performed; the individual receiving the service; the date of the service; the location of service delivery; the individual providing the services; and the time the service begins and ends. Digital verification of home healthcare services helps confirm that providers visit patients as stipulated by the care plan and ensures that claims are appropriately paid based on actual visit data. This agreement will assist the Department to define Electronic Visit Verification requirements that work for stakeholders statewide, and that meet the requirements of the 21st Century Cures Act and the Centers for Medicare and Medicaid Services.

The Department will monitor the effectiveness of the Contractor and the delivery of services required under this agreement by ensuring that the Contractor provides:

- Bi-weekly status reports.
- An Implementation Advanced Planning Document for State submission to the Centers for Medicare and Medicaid Services
- A presentation of preliminary findings to the Department.
- A business requirements document.

Mercer Health & Benefits LLC was selected for this project through a competitive bid process. A Request for Proposals was published on the Department of Health and Human Services website from March 12, 2019 through May 2, 2019. The Department received eight (8) proposals. The Score Summary Sheet is attached.

Should the Governor and Executive Council not authorize this request, the Department may not be able to implement Electronic Visit Verification as required by the 21st Century Cures Act and per the conditions of the state's good faith exemption for implementation that was granted to New Hampshire by Centers for Medicare and Medicaid Services (CMS) on November 21, 2019. Per the good faith exemption, CMS will not apply federal medical assistance percentage (FMAP) reductions in calendar year 2020. Please be advised that the Cures Act provision on good faith effort exemptions does not provide CMS with authority to delay the FMAP reductions for more than one year. Therefore, if the state is not fully compliant by January 1, 2021, FMAP reductions will be applied beginning in the first quarter of 2021 and every quarter thereafter until the state achieves compliance.

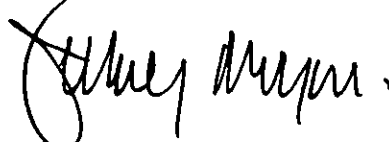
Area served: Statewide

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
Page 3 of 3

Source of Funds: 100% Federal Funds from Centers for Medicare and Medicaid Services, Money Follows the Person, CFDA #93.791, FAIN #1LICMS300148.

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 "Jeffrey Meyers", written in a cursive style.

Jeffrey A. Meyers
Commissioner



New Hampshire Department of Health and Human Services
Office of Business Operations
Contracts & Procurement Unit
Summary Scoring Sheet

**Electronic Visit Verification (EVV)
System-Consulting Services**

RFP-2019-LTSS-01-ELECT

RFP Name

RFP Number

Reviewer Names

Bidder Name
1. <u>Spruce Technology, Inc.</u>
2. <u>Mercer Health & Benefits, LLC (Mercer)</u>
3. <u>Health Tech Solutions, LLC</u>
4. <u>Myers and Stauffer</u>
5. <u>The Ripples Group</u>
6. <u>NTTDATA State Health Consulting, LLC</u>
7. <u>Centric Consulting, LLC</u>
8. <u>McNeil & Parker, LLC (Berry Dunn)</u>
9. <u>0</u>
10. <u>0</u>
11. <u>0</u>

Pass/Fail	Maximum Points	Actual Points
	1000	679
	1000	888
	1000	808
	1000	706
	1000	735
	1000	688
	1000	604
	1000	666
	1000	0
	1000	0
	1000	0

1. Wendi Aultman, Bureau Chief, LTS:
2. Karen Carleton, Administrator II, OII
3. Sandy Hunt, Director, Development
4. Jane Hybsch, Administrator IV, DM:
5. Kerri King, Manager IV, OIS
6. Leslie Mason, Manager IV, PMO
7. _____
8. _____
9. _____

Subject: RFP-2019-DTSS-01-ELECT Electronic Visit Verification (EVV) Consulting Services


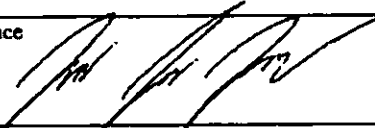
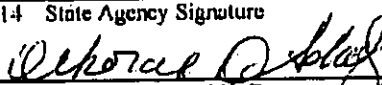
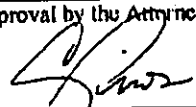
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

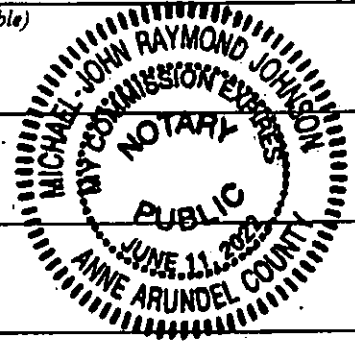
AGREEMENT

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 Health and Human Services		1.2 State Agency Address 129 Pleasant Street Concord, NH 03301-3857	
1.3 Contractor Name Mercer Health & Benefits LLC		1.4 Contractor Address 1166 Avenue of the Americas New York, NY 10036	
1.5 Contractor Phone Number 1-617 859-0512	1.6 Account Number 05-95-48-481010-8920 05-95-93-930010-511200000 102-500731	1.7 Completion Date 09/30/2020	1.8 Price Limitation \$275,380
1.9 Contracting Officer for State Agency Nathan D. White, Director		1.10 State Agency Telephone Number 603-271-9631	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Deidra Abbott, Principal	
1.13 Acknowledgement: State of <u>Massachusetts</u> , County of <u>Anne Arundel</u> On <u>11/26/2019</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 Michael - John Johnson Personal Banker I			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Director, DTSS	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Date: <u>12/26/19</u> Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  CATHERINE PINOS On: <u>12/3/19</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			



Subject: RFP-2019-LTSS-01-ELECT Electronic Visit Verification (EVV) Consulting Services

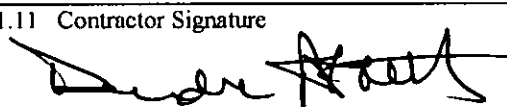

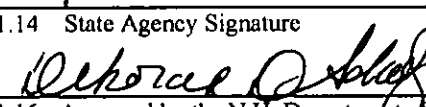
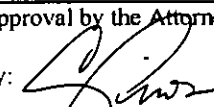
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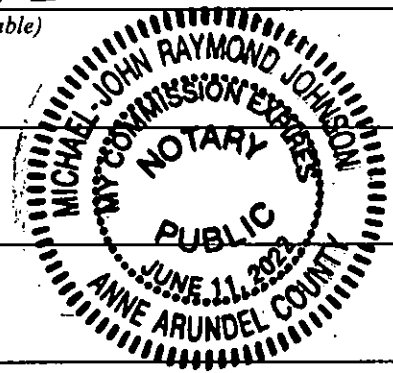
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1.13.1 Signature of Notary Public or Justice of the Peace <div style="text-align: center;">  [Seal] </div>			
1.13.2 Name and Title of Notary or Justice of the Peace <u>Michael - John Johnson</u> <u>Personal Banker I</u>			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Director, DLTSS	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Date: <u>12/26/19</u> Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  <u>CATHERINE PINOS</u> On: <u>12/3/19</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 DT
Date 11/20/19

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 Services

1. Provisions Applicable to All Services

- 1.1. The Contractor agrees that, to the extent future legislative action by the New Hampshire General Court or federal or state court orders may have an impact on the Services described herein, the State Agency has the right to modify Service priorities and expenditure requirements under this Agreement so as to achieve compliance therewith.
- 1.2. The Contractor shall develop requirements related to the business functions of new electronic visit verification (EVV) system, based on a technical architecture model to be determined by the Department and as defined by the Centers for Medicaid and Medicare services, to support Department programs, predominately in the Division of Long Term Supports and Services (DLTSS), that has the ability to verify home health and personal care services:
 - 1.2.1. Were delivered according to established rules and regulations.
 - 1.2.2. Meet the requirements of Section 12006(a) of the 21st Century Cures Act, signed into law on December 13, 2016.
 - 1.2.3. Support the programs of DHHS, predominately in the Division of Long Term Supports and Services (DLTSS) and the Medicaid State Plan.

2. Scope of Services

- 2.1. The Contractor shall conduct stakeholder engagements and market research in order to inform and gather high-level needs and requirements that will be used to identify specific, measurable and testable, traceable, complete, and consistent requirements that will be utilized as a foundation for a Request for Proposal (RFP) to procure the Electronic Visit Verification (EVV) technology and services.
- 2.2. The Contractor shall conduct a market analysis for a new electronic visit verification (EVV) system, which results in information that includes, but is not limited to:
 - 2.2.1. A comprehensive list of functional and nonfunctional business and technical requirements.
 - 2.2.2. Deliverables and acceptance criteria for the future EVV system.
 - 2.2.3. A business requirements document and a complete narrative statement of work that will be utilized in the development of an RFP for a new EVV.
- 2.3. The Contractor shall utilize a seven (7) step Market Survey Process that includes but is not limited to:

**New Hampshire Department of Health and Human Services
ELECTRONIC VISIT VERIFICATION (EVV)
SYSTEM – CONSULTING SERVICES**



Exhibit A

2.3.1. Research

2.3.1.1. The Contractor shall utilize the EVV Design Questions document to:

2.3.1.1.1. Explore Department interest and business needs.

2.3.1.1.2. Document decisions points.

2.3.1.1.3. Document system requirements.

2.3.1.1.4. Tailor questions that solicit feedback from stakeholders to inform requirements development in areas that include, but are not limited to:

2.3.1.1.4.1. Data collection.

2.3.1.1.4.2. EVV equipment.

2.3.1.1.4.3. Systems capabilities.

2.3.1.1.4.4. Data aggregation.

2.3.1.2. The Contractor shall complete an analysis of Department research, survey results, the Centers for Medicaid Services (CMS) white papers, provider feedback, and EVV related information from the National Association of States United for Aging and Disabilities, now known as Advancing States.

2.3.1.3. The Contractor shall conduct research and analysis of other state EVV implementations.

2.3.1.4. The Contractor shall identify EVV industry standards and best practices.

2.3.1.5. The Contractor shall conduct research and analysis of EVV solutions that include, but are not limited to:

2.3.1.5.1. Commercial Off The Shelf (COTS) solutions.

2.3.1.5.2. Software as a Service (SAAS) solutions.

2.3.1.5.3. Systems used by other public sector institutions.

2.3.1.6. The Contractor shall identify EVV vendor capabilities and pricing models.

2.3.1.7. The Contractor shall provide a "build/buy/enhance" analysis that informs the Department about the advantages and disadvantages of each type of solution, including but not limited to, the viability of enhancing existing DHHS technology solutions to fulfill the Departments requirements for an EVV system.



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- 2.3.2. Develop Interview Guide
 - 2.3.2.1. The Contractor shall develop an interview guide in order to understand and document solution options that focus on:
 - 2.3.2.1.1. Solution architecture.
 - 2.3.2.1.2. Interoperability components and limits.
 - 2.3.2.1.3. System features and functionality.
 - 2.3.2.1.4. Non-functional requirements that include but are not limited to:
 - 2.3.2.1.4.1. Audit features.
 - 2.3.2.1.4.2. System capacity and performance.
 - 2.3.2.1.4.3. Data security.
 - 2.3.2.2. The Contractor shall collect estimated cost factors and prepare a cost/benefit analysis for each potential EVV solution, which must include comparable estimates of:
 - 2.3.2.2.1. Implementation costs, which include but are not limited to:
 - 2.3.2.2.1.1. Base system installation and integration.
 - 2.3.2.2.1.2. Start-up.
 - 2.3.2.2.1.3. System training for system use.
 - 2.3.2.2.1.4. Maintenance.
 - 2.3.2.2.1.5. End-use.
 - 2.3.2.2.1.6. Cost of training for personal care and home health service providers.
 - 2.3.2.2.2. On-going data collecting costs and field data collection device costs, as applicable.
 - 2.3.2.2.3. Data aggregator costs to support:
 - 2.3.2.2.3.1. System component data integration.
 - 2.3.2.2.3.2. Data analysis.
 - 2.3.2.2.3.3. Reporting.
 - 2.3.2.2.3.4. Other EVV data use needs.
 - 2.3.2.3. The Contractor shall create and submit the Interview Guide to the Department for approval prior to implementation to



Exhibit A

ensure equitable information is gathered from all potential vendors.

2.3.3. Interview EVV Solution Vendors

2.3.3.1. The Contractor shall work with the Department to publish a notification to solicit market vendor participation in the interview process and shall interview no less than three vendors to ensure a reasonable degree of certainty that any proposed requirements and potential solutions are provided in the most fair and equitable manner. The Contractor shall reach out to prospective EVV vendors to conduct activities that include but are not limited to:

2.3.3.1.1. Scheduling one-on-one interviews.

2.3.3.1.2. Arranging system demonstrations, as needed.

2.3.3.2. The Contractor shall leverage information from a completed EVV Vendor Environmental Scan that includes, but is not limited to:

2.3.3.2.1. Vendor solutions basic features.

2.3.3.2.2. Clients currently using the systems.

2.3.3.2.3. Vendors' contact information.

2.3.4. Update the New Hampshire Market Research Tool (MRT)

2.3.4.1. The Contractor shall update the MRT utilizing:

2.3.4.1.1. Information from the environmental scan in Subsection 2.3.3.2, above.

2.3.4.1.2. Results of vendor interviews.

2.3.4.2. The Contractor shall ensure the MRT reflects and encompasses the EVV:

2.3.4.2.1. Features.

2.3.4.2.2. Functionality.

2.3.4.2.3. Pricing structure.

2.3.4.2.4. Interoperability requirements desired by the Department, including both functional and non-functional parameters.

2.3.5. Analyze Results and Synthesize Stakeholder Feedback

2.3.5.1. The Contractor shall summarize and synthesize the information and analyze the results in order to document:



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- 2.3.5.1.1. Key themes.
 - 2.3.5.1.2. Solution pros and cons.
 - 2.3.5.1.3. Key system components across solution options.
 - 2.3.5.1.4. Pricing model comparisons, which may include costs for:
 - 2.3.5.1.4.1. Base system installation, start-up, data conversion, and integration.
 - 2.3.5.1.4.2. Field data collection devices, ongoing data collection costs, and training;
 - 2.3.5.1.4.3. Data aggregator base and per transaction pricing;
 - 2.3.5.1.4.4. Ongoing maintenance and enhancements.
 - 2.3.5.1.5. Solution implementation steps, timing and barriers.
 - 2.3.5.1.6. Integration of learnings and alignment of solution options in the context of stakeholder feedback and State areas of interest.
 - 2.3.5.1.7. Assessment of each solution that includes consideration of any potential additional costs that may be incurred from penalties from the Centers for Medicare and Medicaid (CMS) for failure to fully comply with the Cures Act mandates.
- 2.3.5.2. The Contractor shall ensure the analysis is objective by:
- 2.3.5.2.1. Not favoring one propriety solution over the other.
 - 2.3.5.2.2. Focusing on the structured, objective information captured during vendor interviews.
 - 2.3.5.2.3. Ensuring vendor names are eliminated from the MRT and are blinded by identifying each vendor generically as, "Vendor #X," throughout all communication and documentation.
- 2.3.6. Issue the Market Research Report.
- 2.3.6.1. The Contractor shall release a draft MRT that contains the results of the interviews and research completed as well as



Exhibit A

- a summary and analysis of the information contained in the MRT.
- 2.3.6.2. The Contractor shall release one (1) draft for Department feedback and one (1) final report that incorporates the Department's feedback. The Contractor shall:
- 2.3.6.2.1. Share a report shell for review and approval prior to drafting and populating the draft report.
 - 2.3.6.2.2. Draft and populate the draft report.
 - 2.3.6.2.3. Release the draft report to the Department for review prior to scheduling an in-person meeting to discuss results.
 - 2.3.6.2.4. Schedule an in-person meeting to present and discuss results, including but not limited to fielding questions and suggestions for final reporting.
 - 2.3.6.2.5. Incorporate feedback received on the draft report into the final report.
 - 2.3.6.2.6. Distribute the final report, as directed by the Department.
- 2.4. The Contractor shall provide consulting and writing assistance for:
- 2.4.1. Development of an Implementation Advanced Planning Document (IAPD) for State submission to the Centers for Medicare and Medicaid Services (CMS), which must:
 - 2.4.1.1. Meet the format, content, activity schedule, cost (including cost benefit analysis), seven conditions and standards justifications, and Medicaid Information Technology Architecture alignment and other needs as required for an IAPD by CMS and federal regulations.
 - 2.4.1.2. Address the full scope of the EVV Project implementation, including any contractor involvement and state staffing costs
 - 2.4.1.3. Meet all requirements for the State to acquire federal approval for the design, development and implementation (DDI) costs of the future EVV solution.
 - 2.4.1.4. Capture EVV-related as-is and to-be business process information, concept of operations and road map impacts.
- 2.5. The Contractor shall complete a Medicaid Information Technology Assessment (MITA) covering business/system operations processes associated with the



Exhibit A

EVV, which must capture EVV-related as-is and to-be business process information, concept of operations and road map impacts.

- 2.6. The Contractor shall update NH MITA 3.0 related artifacts to include EVV.
- 2.7. The Contractor shall assist the Department with identifying business needs for an EVV system that integrates and aggregates data from:
 - 2.7.1. The New Hampshire Medicaid Management Information System (MMIS);
 - 2.7.2. Medicaid Managed Care Organization (MCO) partners; and
 - 2.7.3. Home health and personal care service providers.
- 2.8. The Contractor shall develop business requirements for the subsequent system procurement, which include, but are not limited to:
 - 2.8.1. EVV Scheduling, Billing, and Compliance Capabilities which include, but are not limited to: -
 - 2.8.1.1. Auditable visit verification that prevents provider abuse or inappropriate billing by collecting recipient and direct service worker information electronically at the beginning and end of service visit in the home and other settings.
 - 2.8.1.2. Identification of requirements for NH appropriate worker tools, such as:
 - 2.8.1.2.1. Consumer tablet or mobile device connections.
 - 2.8.1.2.2. Scan-able radio frequency identification tags or bar codes.
 - 2.8.1.2.3. Offline options in the event of limited internet/cell phone connectivity.
 - 2.8.1.2.4. Global positioning systems (GPS).
 - 2.8.1.2.5. Biometric identification.
 - 2.8.1.2.6. Connectivity with provider scheduling systems.
 - 2.8.1.3. Components for EVV verification, which may include, but is not limited to:
 - 2.8.1.3.1. Flexible scheduling, scheduling changes and multiple modes of verification that limit intrusiveness.
 - 2.8.1.3.2. Error Correction that permits retroactive adjustments to visit data.

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- 2.8.1.3.3. Accommodations for persons with disabilities, multiple languages, limited phone and/or internet access.
- 2.8.2. Claims Filing Related Services which include, but are not limited to:-
 - 2.8.2.1. Aggregator functionality to verify visits and compare visit records against claims and authorizations before processing for payment by MMIS or MCOs.
- 2.8.3. Reporting which includes, but is not limited to:
 - 2.8.3.1. Capability to produce a standard suite of reports for system users, including the Department, case management area agencies, provider agencies, and managed care organizations; and
 - 2.8.3.2. Capability that allows the Department to use data elements to query and generate ad-hoc reports.
- 2.8.4. Interfaces to and from the MMIS, MCOs, and providers which include, but are not limited to:
 - 2.8.4.1. Capability to interface daily with all systems to potentially exchange member, provider, visit verification service authorization, and claims information.
- 2.8.5. Business Rules which include, but are not limited to:
 - 2.8.5.1. Assisting the Department to define clear policies and procedures about what EVV systems are considered acceptable for those providers who utilize their own EVV solution.
 - 2.8.5.2. Defining the standard data collection and business rules that will be applied in the aggregator system to ensure appropriate oversight and that EVV standards are met.
 - 2.8.5.3. Incorporate evaluation criteria and key performance indicators to meet CMS EVV outcomes based certification.
- 2.8.6. Training and Readiness Planning which includes, but is not limited to:
 - 2.8.6.1. Delivering a proposed training and readiness plan for the Department and the network of community providers that will assist the Department to plan for the rollout of the EVV system, which must include, but is not limited to:
 - 2.8.6.1.1. Audiences.
 - 2.8.6.1.2. Roles and responsibilities.



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- 2.8.6.1.3. Training tools and methodologies.
- 2.8.6.1.4. Frequency.
- 2.8.6.1.5. Performance measures.
- 2.8.7. Implementation Deliverables and Acceptance Criteria which include, but are not limited to:
 - 2.8.7.1. A list of project deliverables for the implementation of new technology with written acceptance criteria to be incorporated in a future Request for Proposals (RFP) for the new EVV system, and
 - 2.8.7.2. A list of acceptance criteria that must describe specific and defined conditions to be met before a project deliverable can be considered complete and can be accepted by the Department.
- 2.9. The Contractor shall develop a focused interview questionnaire to be completed during interviews with technology and business stakeholders among DHHS staff and state providers, which will focus on the deployment of requirements in key areas, including, but not limited to:
 - 2.9.1. Data collection.
 - 2.9.2. Visit verification.
 - 2.9.3. EVV equipment.
 - 2.9.4. System capabilities.
 - 2.9.5. Data aggregation.
 - 2.9.6. Scheduling.
 - 2.9.7. Billing.
 - 2.9.8. Reporting and User Portal.
 - 2.9.9. Interfaces with other systems.
- 2.10. The Contractor shall interact with stakeholders to elicit, analyze, communicate and validate requirements, including, but not limited to scheduling and facilitating kick-off meetings with key groups of stakeholders, as requested and approved by the Department.
- 2.11. The Contractor shall submit a narrative report to the Department that includes, but is not limited to:
 - 2.11.1. Summaries of stakeholder feedback.
 - 2.11.2. Descriptions of stakeholder technical, data security, and privacy requirements.



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- 2.11.3. Other relevant information provided by stakeholders during interviews.
- 2.12. The Contractor shall recommend solutions that enable the Department to achieve its goals and objectives, which must include, but is not limited to:
 - 2.12.1. Performing an analysis of:
 - 2.12.1.1. Health information systems interoperability.
 - 2.12.1.2. Data and privacy security standards.
 - 2.12.1.3. Medicaid information technology architecture.
 - 2.12.2. Creating process workflow diagrams for:
 - 2.12.2.1. Current and future state member and provider service delivery processes.
 - 2.12.2.2. Future state processes for managing:
 - 2.12.2.2.1. Eligibility and enrollment data.
 - 2.12.2.2.2. Prior authorizations.
 - 2.12.2.2.3. Claims.
 - 2.12.2.2.4. Provider data.
 - 2.12.2.2.5. Visit Verification data.
 - 2.12.3. Detailed future options and data pathways for EVV and related or supporting technology solutions.
- 2.13. The Contractor shall gather business requirements and assimilate them into a requirements document that includes, but is not limited to:
 - 2.13.1. Accurate and thorough documentation of the statement of work (SOW) that includes, but is not limited to:
 - 2.13.1.1. Requirements designed to facilitate better solution articulation in the responses to the RFP.
 - 2.13.1.2. Implementation deliverables and clear acceptance criteria.
 - 2.13.1.3. Clarification for vendors to accurately bid costs to provide the EVV solution.
 - 2.13.2. Documentation of each identified assumption or constraint that will affect implementation and operation of the EVV system.
 - 2.13.3. Prioritized requirements based on relative importance.

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- 2.13.4. Identified non-functional requirements that describe characteristics or specific parameters of the system such as operational and known technical requirements, which may include, but are not limited to:
 - 2.13.4.1. Audit requirements.
 - 2.13.4.2. Availability,
 - 2.13.4.3. Capacity requirements.
 - 2.13.4.4. Performance requirements.
 - 2.13.4.5. Security requirements.
 - 2.13.4.6. Compliance with:
 - 2.13.4.6.1. Data retention requirements.
 - 2.13.4.6.2. Industry security standards.
- 2.14. The Contractor shall ensure requirements are detailed and sufficient to identify deliverables to be used when developing the RFP for the EVV system.
- 2.15. The Contractor shall ensure that each requirement is consistent with the State of New Hampshire information technology security policies and standards.
- 2.16. The Contractor shall ensure that each requirement is:
 - 2.16.1. Measurable.
 - 2.16.2. Testable.
 - 2.16.3. Traceable.
 - 2.16.4. Complete.
 - 2.16.5. Consistent with the other requirements and with all applicable standards.
 - 2.16.6. Approved by stakeholders.
- 2.17. The Contractor shall identify specific procedure codes and services that require validation as determined by the 21st Century Cures Act, which must include, but is not limited to an analysis of personal care and home health services statewide.
- 2.18. The Contractor shall collaborate with the Department to determine the need for verification of any additional home health services, which may include, but is not limited to private duty nursing services.
- 2.19. The Contractor shall develop a template that identifies and documents:
 - 2.19.1. The number of individual services that are subject to EVV.

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- 2.19.2. The number of providers, including provider type category, that are subject to EVV.
- 2.19.3. The average number of visits provided for each service that are subject to EVV.
- 2.19.4. The average number of units of services provided for each service that is subject to EVV.
- 2.19.5. The average cost for services that are subject to EVV.
- 2.20. The Contractor shall ensure that each requirement is defined to a sufficient level of detail for prospective vendors to understand:
 - 2.20.1. Current business processes.
 - 2.20.2. Mandatory requirements.
 - 2.20.3. Optional requirements.
- 2.21. The Contractor must use the information gathered from market research to further refine requirements to be as clear and comprehensive as possible.
- 2.22. The Contractor shall develop a requirements document, which contains the complete business and technical requirements with a complete description of each function that the system must perform, including but not limited to:
 - 2.22.1. Each functional requirement.
 - 2.22.2. Each non-functional requirement.
 - 2.22.3. Process models.
 - 2.22.4. Data models.
 - 2.22.5. Interface definitions.
- 2.23. The Contractor shall incorporate the business and technical requirements into a scope of work to be used in an RFP to procure the EVV system, to be approved by the Department, which must include, but is not limited to:
 - 2.23.1. Process mapping and workflow documentation.
 - 2.23.2. Reporting and access to data.
 - 2.23.3. Functional process requirements.
 - 2.23.4. Non-functional requirements.
 - 2.23.5. System interface requirements (internal and external).
 - 2.23.6. Security requirements.
 - 2.23.7. Audit trail requirements.
 - 2.23.8. Data currency requirements.



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- 2.23.9. Reliability requirements.
- 2.23.10. Recoverability requirements.
- 2.23.11. System availability requirements.
- 2.23.12. Fault tolerance requirements.
- 2.23.13. Performance requirements.
- 2.23.14. Capacity requirements.
- 2.23.15. Data retention requirements.
- 2.23.16. Acceptance criteria.
- 2.23.17. Glossary.
- 2.24. The Contractor shall provide a narrative for the statement of work for the subsequent RFP to procure an EVV system, to be approved by the Department, which must include but is not limited to and implementation plan.
- 2.25. The Contractor shall provide adequate staffing for this project, to be approved by the Department, which must include, but is not limited to:
 - 2.25.1. A project manager, who must identify and employ effective project management tools, which may include, but is not limited to:
 - 2.25.1.1. Stakeholder engagement plans.
 - 2.25.1.2. Communication schedules and procedures.
 - 2.25.1.3. EVV design questions.
 - 2.25.1.4. Templates for surveys.
 - 2.25.1.5. Templates for organizing and documenting identified business and technical requirements.
 - 2.25.2. A business analyst.
 - 2.25.3. A systems analyst.
 - 2.25.4. A subject matter expert.
 - 2.25.5. A technical project coordinator who must:
 - 2.25.5.1. Oversee facets of the project that relate to information technology (IT), including, but not limited to:
 - 2.25.5.1.1. IT related stakeholder interviews.
 - 2.25.5.1.2. Gathering and compiling requirements.
 - 2.25.5.1.3. Analyses.
 - 2.25.5.1.4. Documentation and reports.



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- 2.26. The Contractor shall provide personnel with the necessary experience and skills, which must include, but is not limited to:
- 2.26.1. Subject matter expertise.
 - 2.26.2. Experience in Medicaid systems and in Medicaid services delivery.
 - 2.26.3. EVV system experience.
 - 2.26.4. Billing and prior authorization knowledge and/or experience.
 - 2.26.5. Business and systems analysis expertise and experience.
 - 2.26.6. Conceptual systems design expertise and experience.
 - 2.26.7. Systems architecture expertise and experience.
 - 2.26.8. Information Security expertise and experience.
 - 2.26.9. Project management expertise and experience.
 - 2.26.10. Business and technical writing experience.
 - 2.26.11. Privacy and confidentiality safeguarding knowledge and experience.
- 2.27. The Contractor shall attend meetings as required by the Department, at a site to be determined by the Department, which may include, but are not limited to:
- 2.27.1. A kick-off meeting no later than ten (10) days from the Contract Effective Date, which must include, but is not limited to:
 - 2.27.1.1. A review of each project stakeholder, including the stakeholder's general role in the project.
 - 2.27.1.2. A communication plan establishing frequency and type of communication.
 - 2.27.1.3. Introduction of project resources assigned to each task.
 - 2.27.1.4. Specific milestones and deliverables for each task.
 - 2.27.1.5. Measures and processes for controlling and assuring quality.
 - 2.27.1.6. Identified project risks with risk mitigation or contingency plans.
 - 2.27.1.7. Criteria and processes that will be used to measure project progress.
 - 2.27.2. A web-based meeting with business and technical stakeholders, facilitated by the Contractor, to present preliminary findings and solicit feedback from the stakeholders.
 - 2.27.3. A meeting to present preliminary findings, no later than one hundred and forty (140) days from the Contract Effective Date.

DA



Exhibit A

3. Reporting

- 3.1. The Contractor shall provide a weekly project status report to the Department, which must include, but is not limited to:
 - 3.1.1. A narrative summary of all of the contractor's project activities during the previous week.
 - 3.1.2. A copy of any deliverable documents that were due in the previous week.
 - 3.1.3. Stakeholder outreach and interview progress reports.
 - 3.1.4. A summary of the upcoming steps in the project, with task responsibilities assigned to identified project team members.
- 3.2. The Contractor shall provide a final project status report to the Department in accordance with the project plan and schedule, which must include, but is not limited to:
 - 3.2.1. An executive summary.
 - 3.2.2. System requirements.
 - 3.2.3. All EVV system project deliverables.
 - 3.2.4. Acceptance criteria.
 - 3.2.5. Solution recommendations.
 - 3.2.6. Risks and risk mitigation strategies.
 - 3.2.7. Business rules.
 - 3.2.8. A training and readiness plan.
 - 3.2.9. A work flow diagram for the proposed future state.
 - 3.2.10. A statement of work for the EVV RFP.

4. Deliverables

- 4.1. The Contractor shall deliver to the Department the documents described in Deliverables Chart 4.1, in a format specified by the Department, by the date as indicated on Deliverables Chart 4.1.

Deliverables Chart 4.1

New Hampshire Department of Health and Human Services
**ELECTRONIC VISIT VERIFICATION (EVV)
 SYSTEM – CONSULTING SERVICES**



Exhibit A

Ref. #	Activity, Deliverable, or Milestone	Deliverable Type	Due Date (In Days Past Contract Effective Date)
Project Management			
1.	Conduct project kick-off meeting	Non-Software	10
2.	Finalized project plan and schedule	Written	15
3.	Weekly stakeholder outreach/ interview progress report	Written	Each week
4.	Bi-Weekly project status reports	Written	Bi-Weekly
Research			
5.	Interview key executive management to gain a strategic view of the agency's mission and program goals.	Written	30
6.	Interview key technology specialists to understand the DHHS system environment and standards.	Written	30
7.	Interview key program business stakeholders to assess current and future business needs	Written	30
8.	Create a process map for current and future workflows.	Written	75
9.	Conduct detailed market analysis, including research of industry standards and possible solutions	Written	75
10.	Interview key technical stakeholders to assess State IT requirements	Written	75
11.	Interview appropriate stakeholders to assess State security requirements	Written	75
12.	Conduct research to determine budget estimates for the implementation of the new EVV system.	Written	75
Presentation			
13.	Provide business and technical stakeholders with proposed findings for validation prior to preliminary findings presentation	Written	120
14.	Presentation of preliminary findings	Written Non-Software	135

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Ref. #	Activity, Deliverable, or Milestone	Deliverable Type	Due Date (In Days Past Contract Effective Date)
15.	State acceptance of preliminary findings	Written	-
16.	Delivery of final report	Written	150
17.	Develop budget estimates for the implementation of the proposed solutions.	Written	150
18.	Final reports submitted and accepted by DHHS	Written	194
	Final Reports		
	Activity, Deliverable, or Milestone	Deliverable Type	
18a	IAPD/APD Support - Provide consulting and writing assistance for the development of the CMS required IAPD/APD for the future EVV RFP solution	Written	194
18b.	CMS MECL Artifacts - Provide consulting and writing assistance with any updates to previously approved CMS MECL artifacts as they relate to the EVV solution	Written	194
19	System Requirements Document – Formal statement of a system’s business and technical requirements submitted to and accepted by the Department, including, but not limited to: functional process requirements, data requirements, reporting and data access, system interface requirements, nonfunctional or operational requirements, security and privacy safeguards, and evaluation benchmarks.	Written	194
20	Project Deliverables and Acceptance Criteria - a document listing the specific, measurable deliverables with associated acceptance criteria submitted to and accepted by the Department, including a	Written	194

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Exhibit A

Ref. #	Activity, Deliverable, or Milestone	Deliverable Type	Due Date (In Days Past Contract Effective Date)
	formal statement of needs, rules, tests, requirements, and standards that must be used when reviewing each deliverable for acceptance by the Department. This will be used in a scope of work for a future RFP to procure an EVV system.		
21	Market Research Report – a document featuring the results of market research on potential solutions available in the commercial and public sector market places and an estimated budget submitted to and accepted by the Department.	Written	194
22	Solution Recommendations - Using the research conducted, provide “build/buy/enhance” analysis including assumptions and constraints submitted to and accepted by the Department	Written	194
23	Identify Risks – Provide a list and description of potential risks submitted to and accepted by the Department.	Written	194
24	Business Rules – a document defining clear policies and procedures on standard data collection and business rules that will be applied in the aggregator system to ensure appropriate oversight and that EVV standards are met submitted to and accepted by the Department. Include a list of EVV systems are considered acceptable for those providers who utilize their own EVV solution.	Written	194
25	Training and Readiness Plan - A document detailing a proposed training and readiness plan for the Department and the network of community providers that will support the rollout of the EVV system submitted to and accepted by the Department. The plan shall include, at a minimum, audiences, roles and	Written	194

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Exhibit A

Ref. #	Activity, Deliverable, or Milestone	Deliverable Type	Due Date (In Days Past Contract Effective Date)
	responsibilities, training tools and methodologies, frequency, confidentiality and privacy safeguarding of client information, and performance measures. This document will to be used in a scope of work and planning for a future RFP to procure an EVV system.		
26	Statement of Work - a descriptive document that defines the entire scope of the planned EVV system implementation project submitted to and accepted by the Department. DHHS plans to include the statement of work in a Request for Proposal for the procurement of the EVV system and services. It shall include, at a minimum, project-specific activities, requirements, deliverables, acceptance criteria, and timelines for providing services to a client. This document will to be used in a scope of work and planning for a future RFP to procure an EVV system.	Written	194



**New Hampshire Department of Health and Human Services
 Electronic Visit Verification System (EVV) Consulting Services
 Exhibit B**

Method and Conditions Precedent to Payment

1. The State shall pay the Contractor an amount not to exceed the Form P-37, Block 1.8, Price Limitation for the services provided pursuant to Exhibit A, Scope of Services.
2. This Agreement is funded with Federal funds as follows: 100% Federal Funds from Centers for Medicare and Medicaid Services Money Follows the Person, Catalog of Federal Domestic Assistance (CFDA) #93.791, Federal Award Identification Number (FAIN) #1LTCMS300148-01-10.
3. Failure to meet the scope of services may jeopardize the funded Contractor's current and/or future funding.
4. Payment for said services shall be made monthly as follows:
 - 4.1. Payment shall be on a deliverable basis in accordance with Exhibit B-1, Delivery Schedule and Pricing.
 - 4.2. The Contractor shall submit an invoice in a form satisfactory to the State by the twentieth (20th) working day of each month, which identifies and requests reimbursement for deliverables completed in the prior month.
 - 4.3. The Contractor shall ensure the invoice is completed, signed, dated and returned to the Department in order to initiate payment.
 - 4.4. The State shall make payment to the Contractor within thirty (30) days of receipt of each invoice, subsequent to approval of the submitted invoice and if sufficient funds are available.
5. The Contractor shall keep detailed records of their activities related to Department-funded programs and services and have records available for Department review, as requested.
6. The final invoice shall be due to the State no later than forty (40) days after the contract completion date specified in Form P-37, General Provisions Block 1.7 Completion Date.
7. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed, or invoices may be mailed to:

Kerri King
 Information Technology Manager
 Department of Health and Human Services
 Division of Long Term Supports and
 Services
 129 Pleasant Street
 Concord, NH 03301

Elizabeth Shields
 Project Manager
 Department of Health and Human Services
 Project Management Office
 129 Pleasant Street
 Concord, NH 03301

**New Hampshire Department of Health and Human Services
Electronic Visit Verification System (EVV) Consulting Services
Exhibit B**



Kerri.king@dhhs.nh.gov

Elizabeth.shields@dhhs.nh.gov

8. Payments may be withheld pending receipt of required reports or documentation as identified in Exhibit A, Scope of Services and in this Exhibit B.
9. Notwithstanding anything to the contrary herein, the Contractor agrees that funding under this agreement may be withheld, in whole or in part, in the event of non-compliance with any Federal or State law, rule or regulation applicable to the services provided, or if the said services or products have not been satisfactorily completed in accordance with the terms and conditions of this agreement.
10. Notwithstanding paragraph 18 of the General Provisions P-37, changes limited to adjusting amounts between budget line items, related items, amendments of related budget exhibits within the price limitation, and to adjusting encumbrances between State Fiscal Years, may be made by written agreement of both parties and may be made without obtaining approval of the Governor and Executive Council.

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11/26/19

New Hampshire Department of Health and Human Services
**ELECTRONIC VISIT VERIFICATION (EVV) SYSTEM –
CONSULTING SERVICES**



Exhibit B-1

Delivery Schedule and Pricing

Ref. #	Activity, Deliverable, or Milestone	Deliverable Type	Proposed Delivery Date	
Project Management				
1	Conduct project kick-off meetings	Non- Software	1/23/2020	\$10,580
2	Finalized work plan	Written	1/29/2020	\$3,300
3	Weekly stakeholder outreach/interview progress report	Written	Each Week	\$8,160
4	Bi-weekly project status reports	Written	Bi-Weekly	\$15,980
Research				
5	Interview key executive management to gain a strategic view of the agency's mission and program goals	Written	2/12/2020	\$13,380
6	Interview key technology specialists to understand the DHHS system environment and standards	Written	2/12/2020	\$15,220
7	Interview key program business stakeholders to assess current and future business needs	Written	2/12/2020	\$14,160
8	Create a process map for current and future workflows	Written	3/25/2020	\$11,380
9	Conduct detailed market analysis, including research of industry standards and possible solutions	Written	3/25/2020	\$11,780
10	Interview key technical stakeholders to assess State IT requirements	Written	3/25/2020	\$11,100
11	Interview appropriate stakeholders to assess State security requirements	Written	3/25/2020	\$7,940
12	Conduct research to determine budget estimates for the implementation of the new EVV system	Written	3/25/2020	\$4,840

New Hampshire Department of Health and Human Services
**ELECTRONIC VISIT VERIFICATION (EVV) SYSTEM –
CONSULTING SERVICES**



Exhibit B-1

Ref.#	Activity, Deliverable, or Milestone	Deliverable Type	Proposed Delivery Date	
Presentation				
13	Provide business and technical stakeholders with proposed findings for validation prior to preliminary findings presentation	Written	5/6/2020	\$6,640
14	Presentation of preliminary findings	Written Non-Software	5/20/2020	\$7,040
15	State acceptance of preliminary findings	Written	5/26/2020	\$6,220
16	Delivery of final report (Phase One and Phase Two)	Written	6/4/2020	\$6,720
17	Develop budget estimates for the implementation of the proposed solutions	Written	7/5/2020	\$5,520
18	Final reports submitted to and accepted by the Department	Written	7/19/2020	\$6,240
Final Reports				
18a	IAPD/APD Support - Provide consulting and writing assistance for the development of the CMS required IAPD/APD for the future EVV RFP solution	Written	7/6/2020	\$8,320
18b	CMS MECL Artifacts -Provide consulting and writing assistance with any updates to previously approved CMS MECL artifacts as they relate to the EVV solution	Written	7/6/2020	\$5,600
19	System Requirements Document - formal statement of a system's business and technical requirements, including, but not limited to: functional process requirements, data requirements, reporting and data access, system interface requirements, non-functional or operational requirements, security and privacy safeguards and evaluation benchmarks, submitted to and accepted by the Department.	Written	7/20/2020	\$23,920

New Hampshire Department of Health and Human Services
 ELECTRONIC VISIT VERIFICATION (EVV) SYSTEM –
 CONSULTING SERVICES



Exhibit B-1

Ref #	Activity, Deliverable, or Milestone	Deliverable Type	Proposed Delivery Date	
20	Project Deliverables and Acceptance Criteria - A document listing the specific, measurable deliverables for implementing the system with associated acceptance criteria, including a formal statement of needs, rules, tests, requirements, and standards that must be used when reviewing each deliverable submitted to and accepted by the Department.	Written	7/20/2020	\$8,560
21	Market Research Report - A document featuring the results of market research on potential solutions available in the commercial and public sector market places and an estimated budget submitted to and accepted by the Department.	Written	7/20/2020	\$6,360
22	Solution Recommendations - Using the research conducted, provide "build/buy/enhance" analysis including assumptions and constraints submitted to and accepted by the Department.	Written	7/20/2020	\$9,020
23	Identify Risks - Provide a list and description of potential risks submitted to and accepted by the Department.	Written	7/20/2020	\$4,420
24	Business Rules - A document defining clear policies and procedures on standard data collection and business rules that will be applied in the aggregator system to ensure appropriate oversight and that EVV standards are met, submitted to and accepted by the Department. Include a list of EVV systems considered acceptable for those providers who utilize their own EVV solution	Written	7/20/2020	\$23,120

New Hampshire Department of Health and Human Services
 ELECTRONIC VISIT VERIFICATION (EVV) SYSTEM –
 CONSULTING SERVICES



Exhibit B-1

Ref #	Activity, Deliverable, or Milestone	Deliverable Type	Proposed Delivery Date	
25	Training and Readiness Plan - A document detailing a proposed training and readiness plan for the Department and the network of community providers that will support the rollout of the EVV system submitted to and accepted by the Department. The plan shall include, at a minimum, audiences, roles and responsibilities, training tools and methodologies, frequency, confidentiality and privacy safeguarding of client information and performance measures.	Written	07/29/2020	\$9,460
26	Statement of Work - A descriptive document that defines the entire scope of the planned EVV system implementation project submitted to and accepted by the Department. DHHS plans to include the statement of work in a Request for Proposal for the procurement of the EVV system and services. It shall include, at a minimum, project-specific activities, requirements, deliverables, acceptance criteria, and timelines for providing services to client.	Written	07/20/2020	\$10,400
GRAND TOTAL				\$275,380



SPECIAL PROVISIONS

Contractors Obligations: The Contractor covenants and agrees that all funds received by the Contractor under the Contract shall be used only as payment to the Contractor for services provided to eligible individuals and, in the furtherance of the aforesaid covenants, the Contractor hereby covenants and agrees as follows:

1. **Compliance with Federal and State Laws:** If the Contractor is permitted to determine the eligibility of individuals such eligibility determination shall be made in accordance with applicable federal and state laws, regulations, orders, guidelines, policies and procedures.
2. **Time and Manner of Determination:** Eligibility determinations shall be made on forms provided by the Department for that purpose and shall be made and remade at such times as are prescribed by the Department.
3. **Documentation:** In addition to the determination forms required by the Department, the Contractor shall maintain a data file on each recipient of services hereunder, which file shall include all information necessary to support an eligibility determination and such other information as the Department requests. The Contractor shall furnish the Department with all forms and documentation regarding eligibility determinations that the Department may request or require.
4. **Fair Hearings:** The Contractor understands that all applicants for services hereunder, as well as individuals declared ineligible have a right to a fair hearing regarding that determination. The Contractor hereby covenants and agrees that all applicants for services shall be permitted to fill out an application form and that each applicant or re-applicant shall be informed of his/her right to a fair hearing in accordance with Department regulations.
5. **Gratuities or Kickbacks:** The Contractor agrees that it is a breach of this Contract to accept or make a payment, gratuity or offer of employment on behalf of the Contractor, any Sub-Contractor or the State in order to influence the performance of the Scope of Work detailed in Exhibit A of this Contract. The State may terminate this Contract and any sub-contract or sub-agreement if it is determined that payments, gratuities or offers of employment of any kind were offered or received by any officials, officers, employees or agents of the Contractor or Sub-Contractor.
6. **Retroactive Payments:** Notwithstanding anything to the contrary contained in the Contract or in any other document, contract or understanding, it is expressly understood and agreed by the parties hereto, that no payments will be made hereunder to reimburse the Contractor for costs incurred for any purpose or for any services provided to any individual prior to the Effective Date of the Contract and no payments shall be made for expenses incurred by the Contractor for any services provided prior to the date on which the individual applies for services or (except as otherwise provided by the federal regulations) prior to a determination that the individual is eligible for such services.
7. **Conditions of Purchase:** Notwithstanding anything to the contrary contained in the Contract, nothing herein contained shall be deemed to obligate or require the Department to purchase services hereunder at a rate which reimburses the Contractor in excess of the Contractors costs, at a rate which exceeds the amounts reasonable and necessary to assure the quality of such service, or at a rate which exceeds the rate charged by the Contractor to ineligible individuals or other third party funders for such service. If at any time during the term of this Contract or after receipt of the Final Expenditure Report hereunder, the Department shall determine that the Contractor has used payments hereunder to reimburse items of expense other than such costs, or has received payment in excess of such costs or in excess of such rates charged by the Contractor to ineligible individuals or other third party funders, the Department may elect to:
 - 7.1. Renegotiate the rates for payment hereunder, in which event new rates shall be established;
 - 7.2. Deduct from any future payment to the Contractor the amount of any prior reimbursement in excess of costs;



- 7.3. Demand repayment of the excess payment by the Contractor in which event failure to make such repayment shall constitute an Event of Default hereunder. When the Contractor is permitted to determine the eligibility of individuals for services, the Contractor agrees to reimburse the Department for all funds paid by the Department to the Contractor for services provided to any individual who is found by the Department to be ineligible for such services at any time during the period of retention of records established herein.

RECORDS: MAINTENANCE, RETENTION, AUDIT, DISCLOSURE AND CONFIDENTIALITY:

8. **Maintenance of Records:** In addition to the eligibility records specified above, the Contractor covenants and agrees to maintain the following records during the Contract Period:
- 8.1. **Fiscal Records:** books, records, documents and other data evidencing and reflecting all costs and other expenses incurred by the Contractor in the performance of the Contract, and all income received or collected by the Contractor during the Contract Period, said records to be maintained in accordance with accounting procedures and practices which sufficiently and properly reflect all such costs and expenses, and which are acceptable to the Department, and to include, without limitation, all ledgers, books, records, and original evidence of costs such as purchase requisitions and orders, vouchers, requisitions for materials, inventories, valuations of in-kind contributions, labor time cards, payrolls, and other records requested or required by the Department.
 - 8.2. **Statistical Records:** Statistical, enrollment, attendance or visit records for each recipient of services during the Contract Period, which records shall include all records of application and eligibility (including all forms required to determine eligibility for each such recipient), records regarding the provision of services and all invoices submitted to the Department to obtain payment for such services.
 - 8.3. **Medical Records:** Where appropriate and as prescribed by the Department regulations, the Contractor shall retain medical records on each patient/recipient of services.
9. **Audit:** Contractor shall submit an annual audit to the Department within 60 days after the close of the agency fiscal year. It is recommended that the report be prepared in accordance with the provision of Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non Profit Organizations" and the provisions of Standards for Audit of Governmental Organizations, Programs, Activities and Functions, issued by the US General Accounting Office (GAO standards) as they pertain to financial compliance audits.
- 9.1. **Audit and Review:** During the term of this Contract and the period for retention hereunder, the Department, the United States Department of Health and Human Services, and any of their designated representatives shall have access to all reports and records maintained pursuant to the Contract for purposes of audit, examination, excerpts and transcripts.
 - 9.2. **Audit Liabilities:** In addition to and not in any way in limitation of obligations of the Contract, it is understood and agreed by the Contractor that the Contractor shall be held liable for any state or federal audit exceptions and shall return to the Department, all payments made under the Contract to which exception has been taken or which have been disallowed because of such an exception.
10. **Confidentiality of Records:** All information, reports, and records maintained hereunder or collected in connection with the performance of the services and the Contract shall be confidential and shall not be disclosed by the Contractor, provided however, that pursuant to state laws and the regulations of the Department regarding the use and disclosure of such information, disclosure may be made to public officials requiring such information in connection with their official duties and for purposes directly connected to the administration of the services and the Contract; and provided further, that the use or disclosure by any party of any information concerning a recipient for any purpose not directly connected with the administration of the Department or the Contractor's responsibilities with respect to purchased services hereunder is prohibited except on written consent of the recipient, his attorney or guardian.



Notwithstanding anything to the contrary contained herein the covenants and conditions contained in the Paragraph shall survive the termination of the Contract for any reason whatsoever.

11. **Reports: Fiscal and Statistical:** The Contractor agrees to submit the following reports at the following times if requested by the Department.
 - 11.1. **Interim Financial Reports:** Written interim financial reports containing a detailed description of all costs and non-allowable expenses incurred by the Contractor to the date of the report and containing such other information as shall be deemed satisfactory by the Department to justify the rate of payment hereunder. Such Financial Reports shall be submitted on the form designated by the Department or deemed satisfactory by the Department.
 - 11.2. **Final Report:** A final report shall be submitted within thirty (30) days after the end of the term of this Contract. The Final Report shall be in a form satisfactory to the Department and shall contain a summary statement of progress toward goals and objectives stated in the Proposal and other information required by the Department.
12. **Completion of Services: Disallowance of Costs:** Upon the purchase by the Department of the maximum number of units provided for in the Contract and upon payment of the price limitation hereunder, the Contract and all the obligations of the parties hereunder (except such obligations as, by the terms of the Contract are to be performed after the end of the term of this Contract and/or survive the termination of the Contract) shall terminate, provided however, that if, upon review of the Final Expenditure Report the Department shall disallow any expenses claimed by the Contractor as costs hereunder the Department shall retain the right, at its discretion, to deduct the amount of such expenses as are disallowed or to recover such sums from the Contractor.
13. **Credits:** All documents, notices, press releases, research reports and other materials prepared during or resulting from the performance of the services of the Contract shall include the following statement:
 - 13.1. The preparation of this (report, document etc.) was financed under a Contract with the State of New Hampshire, Department of Health and Human Services, with funds provided in part by the State of New Hampshire and/or such other funding sources as were available or required, e.g., the United States Department of Health and Human Services.
14. **Prior Approval and Copyright Ownership:** All materials (written, video, audio) produced or purchased under the contract shall have prior approval from DHHS before printing, production, distribution or use. The DHHS will retain copyright ownership for any and all original materials produced, including, but not limited to, brochures, resource directories, protocols or guidelines, posters, or reports. Contractor shall not reproduce any materials produced under the contract without prior written approval from DHHS.
15. **Operation of Facilities: Compliance with Laws and Regulations:** In the operation of any facilities for providing services, the Contractor shall comply with all laws, orders and regulations of federal, state, county and municipal authorities and with any direction of any Public Officer or officers pursuant to laws which shall impose an order or duty upon the contractor with respect to the operation of the facility or the provision of the services at such facility. If any governmental license or permit shall be required for the operation of the said facility or the performance of the said services, the Contractor will procure said license or permit, and will at all times comply with the terms and conditions of each such license or permit. In connection with the foregoing requirements, the Contractor hereby covenants and agrees that, during the term of this Contract the facilities shall comply with all rules, orders, regulations, and requirements of the State Office of the Fire Marshal and the local fire protection agency, and shall be in conformance with local building and zoning codes, by-laws and regulations.
16. **Equal Employment Opportunity Plan (EEO):** The Contractor will provide an Equal Employment Opportunity Plan (EEO) to the Office for Civil Rights, Office of Justice Programs (OCR), if it has received a single award of \$500,000 or more. If the recipient receives \$25,000 or more and has 50 or



more employees, it will maintain a current EEOP on file and submit an EEOP Certification Form to the OCR, certifying that its EEOP is on file. For recipients receiving less than \$25,000, or public grantees with fewer than 50 employees, regardless of the amount of the award, the recipient will provide an EEOP Certification Form to the OCR certifying it is not required to submit or maintain an EEOP. Non-profit organizations, Indian Tribes, and medical and educational institutions are exempt from the EEOP requirement, but are required to submit a certification form to the OCR to claim the exemption. EEOP Certification Forms are available at: <http://www.ojp.usdoj/about/ocr/pdfs/cert.pdf>.

17. **Limited English Proficiency (LEP):** As clarified by Executive Order 13166, Improving Access to Services for persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with the Omnibus Crime Control and Safe Streets Act of 1968 and Title VI of the Civil Rights Act of 1964, Contractors must take reasonable steps to ensure that LEP persons have meaningful access to its programs.

18. **Pilot Program for Enhancement of Contractor Employee Whistleblower Protections:** The following shall apply to all contracts that exceed the Simplified Acquisition Threshold as defined in 48 CFR 2.101 (currently, \$150,000)

CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF
WHISTLEBLOWER RIGHTS (SEP 2013)

- (a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.

 - (b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

 - (c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.
19. **Subcontractors:** DHHS recognizes that the Contractor may choose to use subcontractors with greater expertise to perform certain health care services or functions for efficiency or convenience, but the Contractor shall retain the responsibility and accountability for the function(s). Prior to subcontracting, the Contractor shall evaluate the subcontractor's ability to perform the delegated function(s). This is accomplished through a written agreement that specifies activities and reporting responsibilities of the subcontractor and provides for revoking the delegation or imposing sanctions if the subcontractor's performance is not adequate. Subcontractors are subject to the same contractual conditions as the Contractor and the Contractor is responsible to ensure subcontractor compliance with those conditions.

When the Contractor delegates a function to a subcontractor, the Contractor shall do the following:

- 19.1. Evaluate the prospective subcontractor's ability to perform the activities, before delegating the function
- 19.2. Have a written agreement with the subcontractor that specifies activities and reporting responsibilities and how sanctions/revocation will be managed if the subcontractor's performance is not adequate
- 19.3. Monitor the subcontractor's performance on an ongoing basis



- 19.4. Provide to DHHS an annual schedule identifying all subcontractors, delegated functions and responsibilities, and when the subcontractor's performance will be reviewed
- 19.5. DHHS shall, at its discretion, review and approve all subcontracts.

If the Contractor identifies deficiencies or areas for improvement are identified, the Contractor shall take corrective action.

20. Contract Definitions:

- 20.1. **COSTS:** Shall mean those direct and indirect items of expense determined by the Department to be allowable and reimbursable in accordance with cost and accounting principles established in accordance with state and federal laws, regulations, rules and orders.
- 20.2. **DEPARTMENT:** NH Department of Health and Human Services.
- 20.3. **PROPOSAL:** If applicable, shall mean the document submitted by the Contractor on a form or forms required by the Department and containing a description of the services and/or goods to be provided by the Contractor in accordance with the terms and conditions of the Contract and setting forth the total cost and sources of revenue for each service to be provided under the Contract.
- 20.4. **UNIT:** For each service that the Contractor is to provide to eligible individuals hereunder, shall mean that period of time or that specified activity determined by the Department and specified in Exhibit B of the Contract.
- 20.5. **FEDERAL/STATE LAW:** Wherever federal or state laws, regulations, rules, orders, and policies, etc. are referred to in the Contract, the said reference shall be deemed to mean all such laws, regulations, etc. as they may be amended or revised from time to time.
- 20.6. **SUPPLANTING OTHER FEDERAL FUNDS:** Funds provided to the Contractor under this Contract will not supplant any existing federal funds available for these services.

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11/26/19



New Hampshire Department of Health and Human Services
Exhibit C-1

REVISIONS TO STANDARD CONTRACT LANGUAGE

1. Revisions to Form P-37, General Provisions

1.1. Section 4, Conditional Nature of Agreement, is deleted in its entirety and replaced as follows:

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, in whole or in part, under this Agreement are contingent upon continued appropriation or availability of funds, including any subsequent changes to the appropriation or availability of funds affected by any state or federal legislative or executive action that reduces, eliminates, or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope of Services provided in Exhibit A, Scope of Services, in whole or in part. In no event shall the State be liable for any payments hereunder in excess of appropriated or available funds. In the event of a reduction, termination or modification of appropriated or available funds, the State shall have the right to withhold payment until such funds become available, if ever. The State shall have the right to reduce, terminate or modify services under this Agreement immediately upon giving the Contractor notice of such reduction, termination or modification. The State shall not be required to transfer funds from any other source or account into the Account(s) identified in block 1.6 of the General Provisions, Account Number, or any other account in the event funds are reduced or unavailable.

1.2. Section 6, COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY, Subsection 6.1 is deleted in its entirety and replaced as follows:

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 as then in effect which impose any obligation or duty upon the Contractor, to the extent applicable to services performed under this Contract, 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.

1.3. Section 6, COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY, Subsection 6.3, is replaced as follows:

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.

6.3.1 Inspections will be conducted during normal business hours.;

6.3.2 Written notice of any inspection or audit will be provided to the Contractor no less than forty-eight (48) hours in advance for inspections by the State of New Hampshire only.

1.4. Section 7, Personnel, Subsection 7.2 is deleted.

1.5. Section 7, Personnel, Subsection 7.3, is deleted and replaced as follows:



New Hampshire Department of Health and Human Services
Exhibit C-1

- 7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative.
- 1.6. Section 9, Data/Access/Confidentiality/Preservation, Subsection 9.3
- 9.3 Notwithstanding any other data retention, destruction or return provisions elsewhere in this Contract, Contractor may, in accordance with legal, disaster recovery and records retention requirements, store copies of DHHS data in an archival format (e.g. tape backups), which may not be returned or destroyed upon request of Clients, unless required by law. Such archival copies are subject to confidentiality obligations as may be set forth in this Contract.
- 1.7. Section 9, Data/Access/Confidentiality/Preservation, Subsection 9.4, is added as follows:
- 9.4 Each party and subcontractors will comply with their respective obligations arising from data protection and privacy laws in effect to the extent applicable to this Agreement.
- 1.8. Section 10, Termination, is amended by adding the following language:
- 10.1 The State may terminate the Agreement at any time for any reason, at the sole discretion of the State, 30 days after giving the Contractor written notice that the State is exercising its option to terminate the Agreement.
- 10.2 In the event of early termination, the Contractor shall, provide, for a period up to ninety (90) days after the expiration or termination of this contract, all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees
- 10.3 The Contractor shall fully cooperate with the State and shall promptly deliver to the Department any property, including, without limitation, software and written deliverables for any part of the contract as has been terminated.
- 10.4 After receipt of a notice of termination, and except as otherwise directed to the State, the Contractor shall stop work under the contract, and, to the extent specified in the notice of termination, the Contractor shall:
- 10.4.1 Promptly, but no later than thirty (30) days after termination, terminate its orders and subcontract related to the work which has been terminated and settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval of the Department to the extent required, which approval shall be final for the purpose of this section.
- 10.4.2 Take such action as the Department directs, or as necessary to preserve and protect the property related to the contract which is in the possession of the Contractor, and in which the Department has an interest.
- 10.4.3 Transfer title to the Department and deliver in the manner, at the times, and to the extent directed by the Department, any property which is required to be furnished to the State and which has been requested by the Department, and
- 10.4.3.1 Provide written certification to the Department that the Contractor has surrendered to the Department all said property.
- 10.4.3.2 Assist in transition services, as reasonably requested by the Department, at no additional cost.
- 1.9. Section 13, Indemnification, is replaced as follows:
- The Contractor shall defend, indemnify and hold harmless the State, its affiliates, officers, directors and employees, from against any and all losses suffered by the



New Hampshire Department of Health and Human Services
Exhibit C-1

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. Contractor shall have no responsibility for any losses, liabilities, or damages to the extent they are attributable to the acts or omissions of the State. 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.

1.10. Section 14, Insurance, Subsection 14.1, Paragraph 14.1.1, is deleted and replaced as follows:

14.1.1 Comprehensive general liability insurance against all claims of bodily injury, death or property damage, in the amount of \$1,000,000 per occurrence and \$2,000,000 aggregate and excess/ umbrella liability coverage of \$5,000,000 per occurrence and aggregate; and

1.11. Section 16, Waiver of Breach, is replaced as follows:

No failure by the State of by the Contractor 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 or the Contractor to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the other party.

1.12. Section 23, Severability, is replaced as follows:

It is the intent of the parties that the provisions of this Agreement shall be enforced to the fullest extent permitted by law. 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.

2. Revisions to Standard Exhibits

2.1. Exhibit C, Special Provisions, Section 7 is deleted.

2.2. Exhibit C, Special Provisions, Section 9, is replaced as follows:

9. Audit: Contractor is a wholly owned subsidiary of Marsh & McLennan (MMC) Companies and shall submit a copy of MMC's annual report including but not limited to audited financial statements, to the Department within 60 days after the close of the agency fiscal year. It is recommended that the report be prepared in accordance with the provision of Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non Profit Organizations" and the provisions of Standards for Audit of Governmental Organizations, Programs, Activities and Functions, issued by the US General Accounting Office (GAO standards) as they pertain to financial compliance audits.

9.1. Audit and Review: During the term of this Contract and the period for retention Services, the Department, the United States Department of Health and Human Services, and any of their designated representatives shall have access to all reports and records maintained pursuant to the Contract for purposes of audit, examination, excerpts and transcripts.

9.2. Audit Liabilities: In addition to and not in any way in limitation of obligations of the Contract, it is understood and agreed by the Contractor that the Contractor shall be held liable for any state or federal audit exceptions and shall return to the Department, all payments made under the Contract to which exception has been taken or which have been disallowed because of such an exception.

Exhibit C-1 – Revisions/Exceptions to Standard Contract Language Contractor Initials

DA



CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

The Vendor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

ALTERNATIVE I - FOR GRANTEES OTHER THAN INDIVIDUALS

**US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS
US DEPARTMENT OF EDUCATION - CONTRACTORS
US DEPARTMENT OF AGRICULTURE - CONTRACTORS**

This certification is required by the regulations implementing Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.). The January 31, 1989 regulations were amended and published as Part II of the May 25, 1990 Federal Register (pages 21681-21691), and require certification by grantees (and by inference, sub-grantees and sub-contractors), prior to award, that they will maintain a drug-free workplace. Section 3017.630(c) of the regulation provides that a grantee (and by inference, sub-grantees and sub-contractors) that is a State may elect to make one certification to the Department in each federal fiscal year in lieu of certificates for each grant during the federal fiscal year covered by the certification. The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment. Contractors using this form should send it to:

Commissioner
NH Department of Health and Human Services
129 Pleasant Street,
Concord, NH 03301-6505

1. The grantee certifies that it will or will continue to provide a drug-free workplace by:
 - 1.1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - 1.2. Establishing an ongoing drug-free awareness program to inform employees about
 - 1.2.1. The dangers of drug abuse in the workplace;
 - 1.2.2. The grantee's policy of maintaining a drug-free workplace;
 - 1.2.3. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - 1.2.4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - 1.3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
 - 1.4. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will
 - 1.4.1. Abide by the terms of the statement; and
 - 1.4.2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - 1.5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 1.4.2 from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency

New Hampshire Department of Health and Human Services
Exhibit D



- has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- 1.6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 1.4.2, with respect to any employee who is so convicted
 - 1.6.1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - 1.6.2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
 - 1.7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6.
2. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant.

Place of Performance (street address, city, county, state, zip code) (list each location)

Check if there are workplaces on file that are not identified here.

Vendor Name:
Mercer Health + Benefits, LLC

11/26/19
Date

Deidra Abbott
Name: Deidra Abbott
Title: Principal



CERTIFICATION REGARDING LOBBYING

The Vendor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS
US DEPARTMENT OF EDUCATION - CONTRACTORS
US DEPARTMENT OF AGRICULTURE - CONTRACTORS

Programs (indicate applicable program covered):

- *Temporary Assistance to Needy Families under Title IV-A
- *Child Support Enforcement Program under Title IV-D
- *Social Services Block Grant Program under Title XX
- *Medicaid Program under Title XIX
- *Community Services Block Grant under Title VI
- *Child Care Development Block Grant under Title IV

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor).
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor), the undersigned shall complete and submit Standard Form LLL, (Disclosure Form to Report Lobbying, in accordance with its instructions, attached and identified as Standard Exhibit E-1.)
3. The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Vendor Name: Mercer Health + Benefits, LLC

11/26/19
Date

[Signature]
Name:
Title: Principal



**CERTIFICATION REGARDING DEBARMENT, SUSPENSION
AND OTHER RESPONSIBILITY MATTERS**

The Vendor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Executive Office of the President, Executive Order 12549 and 45 CFR Part 76 regarding Debarment, Suspension, and Other Responsibility Matters, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal (contract), the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the NH Department of Health and Human Services' (DHHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when DHHS determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, DHHS may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the DHHS agency to whom this proposal (contract) is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549: 45 CFR Part 76. See the attached definitions.
6. The prospective primary participant agrees by submitting this proposal (contract) that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by DHHS.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided by DHHS, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or involuntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (of excluded parties).
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and



information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, DHHS may terminate this transaction for cause or default.

PRIMARY COVERED TRANSACTIONS

11. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- 11.1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - 11.2. have not within a three-year period preceding this proposal (contract) been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or a contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - 11.3. are not presently indicted for otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (I)(b) of this certification; and
 - 11.4. have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
12. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal (contract).

LOWER TIER COVERED TRANSACTIONS

13. By signing and submitting this lower tier proposal (contract), the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:
- 13.1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
 - 13.2. where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal (contract).
14. The prospective lower tier participant further agrees by submitting this proposal (contract) that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Vendor Name: Mercer Health + Benefits, LLC

11/26/19
Date

Deirdra Abbott
Name: Deirdra Abbott
Title: Principal

Vendor Initials DA
Date 11/26/19



**CERTIFICATION OF COMPLIANCE WITH REQUIREMENTS PERTAINING TO
FEDERAL NONDISCRIMINATION, EQUAL TREATMENT OF FAITH-BASED ORGANIZATIONS AND
WHISTLEBLOWER PROTECTIONS**

The Vendor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

Vendor will comply, and will require any subgrantees or subcontractors to comply, with any applicable federal nondiscrimination requirements, which may include:

- the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. Section 3789d) which prohibits recipients of federal funding under this statute from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act requires certain recipients to produce an Equal Employment Opportunity Plan;
- the Juvenile Justice Delinquency Prevention Act of 2002 (42 U.S.C. Section 5672(b)) which adopts by reference, the civil rights obligations of the Safe Streets Act. Recipients of federal funding under this statute are prohibited from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act includes Equal Employment Opportunity Plan requirements;
- the Civil Rights Act of 1964 (42 U.S.C. Section 2000d, which prohibits recipients of federal financial assistance from discriminating on the basis of race, color, or national origin in any program or activity);
- the Rehabilitation Act of 1973 (29 U.S.C. Section 794), which prohibits recipients of Federal financial assistance from discriminating on the basis of disability, in regard to employment and the delivery of services or benefits, in any program or activity;
- the Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12131-34), which prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation;
- the Education Amendments of 1972 (20 U.S.C. Sections 1681, 1683, 1685-86), which prohibits discrimination on the basis of sex in federally assisted education programs;
- the Age Discrimination Act of 1975 (42 U.S.C. Sections 6106-07), which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. It does not include employment discrimination;
- 28 C.F.R. pt. 31 (U.S. Department of Justice Regulations – OJJDP Grant Programs); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Executive Order No. 13279 (equal protection of the laws for faith-based and community organizations); Executive Order No. 13559, which provide fundamental principles and policy-making criteria for partnerships with faith-based and neighborhood organizations;
- 28 C.F.R. pt. 38 (U.S. Department of Justice Regulations – Equal Treatment for Faith-Based Organizations); and Whistleblower protections 41 U.S.C. §4712 and The National Defense Authorization Act (NDAA) for Fiscal Year 2013 (Pub. L. 112-239, enacted January 2, 2013) the Pilot Program for Enhancement of Contract Employee Whistleblower Protections, which protects employees against reprisal for certain whistle blowing activities in connection with federal grants and contracts.

The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment.

Exhibit G

Vendor Initials

DA

Certification of Compliance with requirements pertaining to Federal Nondiscrimination, Equal Treatment of Faith-Based Organizations and Whistleblower protections

New Hampshire Department of Health and Human Services
Exhibit G



In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, to the applicable contracting agency or division within the Department of Health and Human Services, and to the Department of Health and Human Services Office of the Ombudsman.

The Vendor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this proposal (contract) the Vendor agrees to comply with the provisions indicated above.

Vendor Name: Mercer Health+Benefits, LLC

11/26/19
Date

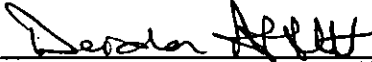

Name: Derdra Abbott
Title: Principal

Exhibit G

Certification of Compliance with requirements pertaining to Federal Nondiscrimination, Equal Treatment of Faith-Based Organizations and Whistleblower protections

Vendor Initials DA



CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, Part C - Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

The Vendor identified in Section 1.3 of the General Provisions agrees, by signature of the Contractor's representative as identified in Section 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this contract, the Vendor agrees to make reasonable efforts to comply with all applicable provisions of Public Law 103-227, Part C, known as the Pro-Children Act of 1994.

Vendor Name: Mercer Health + Benefits, LLC

11/21/19
Date

Deidra Abbott
Name: Deidra Abbott
Title: Principal



Exhibit I

**HEALTH INSURANCE PORTABILITY
ACT BUSINESS ASSOCIATE
AGREEMENT**

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

(1 Definitions.

- a. "Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.
- b. "Business Associate" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.
- c. "Covered Entity" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.
- d. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 CFR Section 164.501.
- e. "Data Aggregation" shall have the same meaning as the term "data aggregation" in 45 CFR Section 164.501.
- f. "Health Care Operations" shall have the same meaning as the term "health care operations" in 45 CFR Section 164.501.
- g. "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act, Title XIII, Subtitle D, Part 1 & 2 of the American Recovery and Reinvestment Act of 2009.
- h. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160, 162 and 164 and amendments thereto.
- i. "Individual" shall have the same meaning as the term "individual" in 45 CFR Section 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.501(g).
- j. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.
- k. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR Section 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

DA



Exhibit I

- i. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR Section 164.103.
- m. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- n. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164, Subpart C, and amendments thereto.
- o. "Unsecured Protected Health Information" means protected health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.
- p. Other Definitions - All terms not otherwise defined herein shall have the meaning established under 45 C.F.R. Parts 160, 162 and 164, as amended from time to time, and the HITECH Act.

(2) **Business Associate Use and Disclosure of Protected Health Information.**

- a. Business Associate shall not use, disclose, maintain or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under Exhibit A of the Agreement. Further, Business Associate, including but not limited to all its directors, officers, employees and agents, shall not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.
- b. Business Associate may use or disclose PHI:
 - I. For the proper management and administration of the Business Associate;
 - II. As required by law, pursuant to the terms set forth in paragraph d. below; or
 - III. For data aggregation purposes for the health care operations of Covered Entity.
- c. To the extent Business Associate is permitted under the Agreement to disclose PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from the third party that such PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and (ii) an agreement from such third party to notify Business Associate, in accordance with the HIPAA Privacy, Security, and Breach Notification Rules of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.
- d. The Business Associate shall not, unless such disclosure is reasonably necessary to provide services under Exhibit A of the Agreement, disclose any PHI in response to a request for disclosure on the basis that it is required by law, without first notifying Covered Entity so that Covered Entity has an opportunity to object to the disclosure and to seek appropriate relief. If Covered Entity objects to such disclosure, the Business



Exhibit I

Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all remedies.

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

(3) Obligations and Activities of Business Associate.

- a. The Business Associate shall notify the Covered Entity's Privacy Officer immediately after the Business Associate becomes aware of any use or disclosure of protected health information not provided for by the Agreement including breaches of unsecured protected health information and/or any security incident that may have an impact on the protected health information of the Covered Entity.
- b. The Business Associate shall immediately perform a risk assessment when it becomes aware of any of the above situations. The risk assessment shall include, but not be limited to:
 - o The nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification;
 - o The unauthorized person used the protected health information or to whom the disclosure was made;
 - o Whether the protected health information was actually acquired or viewed
 - o The extent to which the risk to the protected health information has been mitigated.

The Business Associate shall complete the risk assessment within 48 hours of the breach and immediately report the findings of the risk assessment in writing to the Covered Entity.

- c. The Business Associate shall comply with all sections of the Privacy, Security, and Breach Notification Rule.
- d. Business Associate shall make available all of its internal policies and procedures, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity to the Secretary for purposes of determining Covered Entity's compliance with HIPAA and the Privacy and Security Rule.
- e. Business Associate shall require all of its business associates that receive, use or have access to PHI under the Agreement, to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein, including the duty to return or destroy the PHI as provided under Section 3 (I). The Covered Entity shall be considered a direct third party beneficiary of the Contractor's business associate agreements with Contractor's intended business associates, who will be receiving PHI



Exhibit I

pursuant to this Agreement, with rights of enforcement and indemnification from such business associates who shall be governed by standard Paragraph #13 of the standard contract provisions (P-37) of this Agreement for the purpose of use and disclosure of protected health information.

- f. Within five (5) business days of receipt of a written request from Covered Entity, Business Associate shall make available during normal business hours at its offices all records, books, agreements, policies and procedures relating to the use and disclosure of PHI to the Covered Entity, for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of the Agreement.
- g. Within ten (10) business days of receiving a written request from Covered Entity, Business Associate shall provide access to PHI in a Designated Record Set to the Covered Entity, or as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR Section 164.524.
- h. Within ten (10) business days of receiving a written request from Covered Entity for an amendment of PHI or a record about an individual contained in a Designated Record Set, the Business Associate shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under 45 CFR Section 164.526.
- i. Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.
- j. Within ten (10) business days of receiving a written request from Covered Entity for a request for an accounting of disclosures of PHI, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill its obligations to provide an accounting of disclosures with respect to PHI in accordance with 45 CFR Section 164.528.
- k. In the event any individual requests access to, amendment of, or accounting of PHI directly from the Business Associate, the Business Associate shall within two (2) business days forward such request to Covered Entity. Covered Entity shall have the responsibility of responding to forwarded requests. However, if forwarding the individual's request to Covered Entity would cause Covered Entity or the Business Associate to violate HIPAA and the Privacy and Security Rule, the Business Associate shall instead respond to the individual's request as required by such law and notify Covered Entity of such response as soon as practicable.
- l. Within ten (10) business days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from, or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-up tapes of such PHI. If return or destruction is not feasible, or the disposition of the PHI has been otherwise agreed to in the Agreement, Business Associate shall continue to extend the protections of the Agreement, to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business

3/2014

Vendor Initials JA

Date 11/20/19



Exhibit I

Associate maintains such PHI. If Covered Entity, in its sole discretion, requires that the Business Associate destroy any or all PHI, the Business Associate shall certify to Covered Entity that the PHI has been destroyed.

(4) Obligations of Covered Entity

- a. Covered Entity shall notify Business Associate of any changes or limitation(s) in its Notice of Privacy Practices provided to individuals in accordance with 45 CFR Section 164.520, to the extent that such change or limitation may affect Business Associate's use or disclosure of PHI.
- b. Covered Entity shall promptly notify Business Associate of any changes in, or revocation of permission provided to Covered Entity by individuals whose PHI may be used or disclosed by Business Associate under this Agreement, pursuant to 45 CFR Section 164.506 or 45 CFR Section 164.508.
- c. Covered entity shall promptly notify Business Associate of any restrictions on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(5) Termination for Cause

In addition to Paragraph 10 of the standard terms and conditions (P-37) of this Agreement the Covered Entity may immediately terminate the Agreement upon Covered Entity's knowledge of a breach by Business Associate of the Business Associate Agreement set forth herein as Exhibit I. The Covered Entity may either immediately terminate the Agreement or provide an opportunity for Business Associate to cure the alleged breach within a timeframe specified by Covered Entity. If Covered Entity determines that neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(6) Miscellaneous

- a. Definitions and Regulatory References. All terms used, but not otherwise defined herein, shall have the same meaning as those terms in the Privacy and Security Rule, amended from time to time. A reference in the Agreement, as amended to include this Exhibit I, to a Section in the Privacy and Security Rule means the Section as in effect or as amended.
- b. Amendment. Covered Entity and Business Associate agree to take such action as is necessary to amend the Agreement, from time to time as is necessary for Covered Entity to comply with the changes in the requirements of HIPAA, the Privacy and Security Rule, and applicable federal and state law.
- c. Data Ownership. The Business Associate acknowledges that it has no ownership rights with respect to the PHI provided by or created on behalf of Covered Entity.
- d. Interpretation. The parties agree that any ambiguity in the Agreement shall be resolved to permit Covered Entity to comply with HIPAA, the Privacy and Security Rule.



Exhibit I

- e. Segregation. If any term or condition of this Exhibit I or the application thereof to any person(s) or circumstance is held invalid, such invalidity shall not affect other terms or conditions which can be given effect without the invalid term or condition; to this end the terms and conditions of this Exhibit I are declared severable.
- f. Survival. Provisions in this Exhibit I regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Agreement in section (3) I, the defense and indemnification provisions of section (3) e and Paragraph 13 of the standard terms and conditions (P-37), shall survive the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Exhibit I.

Department of Health and Human Services
The State

Deborah D. Scheetz
Signature of Authorized Representative

Deborah D. Scheetz
Name of Authorized Representative

Director, DLSS
Title of Authorized Representative

12/2/2019
Date

Mercer Health Benefits, LLC
Name of the Vendor

Debra Abbott
Signature of Authorized Representative

Debra Abbott
Name of Authorized Representative

Principal
Title of Authorized Representative

11/26/19
Date



**CERTIFICATION REGARDING THE FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY
ACT (FFATA) COMPLIANCE**

The Federal Funding Accountability and Transparency Act (FFATA) requires prime awardees of individual Federal grants equal to or greater than \$25,000 and awarded on or after October 1, 2010, to report on data related to executive compensation and associated first-tier sub-grants of \$25,000 or more. If the initial award is below \$25,000 but subsequent grant modifications result in a total award equal to or over \$25,000, the award is subject to the FFATA reporting requirements, as of the date of the award.

In accordance with 2 CFR Part 170 (Reporting Subaward and Executive Compensation Information), the Department of Health and Human Services (DHHS) must report the following information for any subaward or contract award subject to the FFATA reporting requirements:

1. Name of entity
2. Amount of award
3. Funding agency
4. NAICS code for contracts / CFDA program number for grants
5. Program source
6. Award title descriptive of the purpose of the funding action
7. Location of the entity
8. Principle place of performance
9. Unique identifier of the entity (DUNS #)
10. Total compensation and names of the top five executives if:
 - 10.1. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25M annually and
 - 10.2. Compensation information is not already available through reporting to the SEC.

Prime grant recipients must submit FFATA required data by the end of the month, plus 30 days, in which the award or award amendment is made.

The Vendor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of The Federal Funding Accountability and Transparency Act, Public Law 109-282 and Public Law 110-252, and 2 CFR Part 170 (Reporting Subaward and Executive Compensation Information), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

The below named Vendor agrees to provide needed information as outlined above to the NH Department of Health and Human Services and to comply with all applicable provisions of the Federal Financial Accountability and Transparency Act.

Vendor Name:

Mercer Health + Benefits, LLC

11/26/19
Date

Deirdra Abbott
Name: *Deirdra Abbott*
Title: *Principal*



FORM A

As the Vendor identified in Section 1.3 of the General Provisions, I certify that the responses to the below listed questions are true and accurate.

1. The DUNS number for your entity is: 616313125
2. In your business or organization's preceding completed fiscal year, did your business or organization receive (1) 80 percent or more of your annual gross revenue in U.S. federal contracts, subcontracts, loans, grants, sub-grants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

NO YES

If the answer to #2 above is NO, stop here

If the answer to #2 above is YES, please answer the following:

3. Does the public have access to information about the compensation of the executives in your business or organization through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

NO YES

If the answer to #3 above is YES, stop here

If the answer to #3 above is NO, please answer the following:

4. The names and compensation of the five most highly compensated officers in your business or organization are as follows:

Name: _____	Amount: _____
Name: _____	Amount: _____
Name: _____	Amount: _____
Name: _____	Amount: _____
Name: _____	Amount: _____



A. Definitions

The following terms may be reflected and have the described meaning in this document:

1. "Breach" means the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users and for an other than authorized purpose have access or potential access to personally identifiable information, whether physical or electronic. With regard to Protected Health Information, "Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.
2. "Computer Security Incident" shall have the same meaning "Computer Security Incident" in section two (2) of NIST Publication 800-61, Computer Security Incident Handling Guide, National Institute of Standards and Technology, U.S. Department of Commerce.
3. "Confidential Information" or "Confidential Data" means all confidential information disclosed by one party to the other such as all medical, health, financial, public assistance benefits and personal information including without limitation, Substance Abuse Treatment Records, Case Records, Protected Health Information and Personally Identifiable Information.

Confidential Information also includes any and all information owned or managed by the State of NH - created, received from or on behalf of the Department of Health and Human Services (DHHS) or accessed in the course of performing contracted services - of which collection, disclosure, protection, and disposition is governed by state or federal law or regulation. This information includes, but is not limited to Protected Health Information (PHI), Personal Information (PI), Personal Financial Information (PFI), Federal Tax Information (FTI), Social Security Numbers (SSN), Payment Card Industry (PCI), and or other sensitive and confidential information.

4. "End User" means any person or entity (e.g., contractor, contractor's employee, business associate, subcontractor, other downstream user, etc.) that receives DHHS data or derivative data in accordance with the terms of this Contract.
5. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder.
6. "Incident" means an act that potentially violates an explicit or implied security policy, which includes attempts (either failed or successful) to gain unauthorized access to a system or its data, unwanted disruption or denial of service, the unauthorized use of a system for the processing or storage of data; and changes to system hardware, firmware, or software characteristics without the owner's knowledge, instruction, or consent. Incidents include the loss of data through theft or device misplacement, loss or misplacement of hardcopy documents, and misrouting of physical or electronic

New Hampshire Department of Health and Human Services

Exhibit K

DHHS Information Security Requirements



mail, all of which may have the potential to put the data at risk of unauthorized access, use, disclosure, modification or destruction.

7. "Open Wireless Network" means any network or segment of a network that is not designated by the State of New Hampshire's Department of Information Technology or delegate as a protected network (designed, tested, and approved, by means of the State, to transmit) will be considered an open network and not adequately secure for the transmission of unencrypted PI, PFI, PHI or confidential DHHS data.
8. "Personal Information" (or "PI") means information which can be used to distinguish or trace an individual's identity, such as their name, social security number, personal information as defined in New Hampshire RSA 359-C:19, biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.
9. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.
10. "Protected Health Information" (or "PHI") has the same meaning as provided in the definition of "Protected Health Information" in the HIPAA Privacy Rule at 45 C.F.R. § 160.103.
11. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Part 164, Subpart C, and amendments thereto.
12. "Unsecured Protected Health Information" means Protected Health Information that is not secured by a technology standard that renders Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

I. RESPONSIBILITIES OF DHHS AND THE CONTRACTOR

A. Business Use and Disclosure of Confidential Information.

1. The Contractor must not use, disclose, maintain or transmit Confidential Information except as reasonably necessary as outlined under this Contract. Further, Contractor, including but not limited to all its directors, officers, employees and agents, must not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.
2. The Contractor must not disclose any Confidential Information in response to a

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request for disclosure on the basis that it is required by law, in response to a subpoena, etc., without first notifying DHHS so that DHHS has an opportunity to consent or object to the disclosure.

3. If DHHS notifies the Contractor that DHHS has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Contractor must be bound by such additional restrictions and must not disclose PHI in violation of such additional restrictions and must abide by any additional security safeguards.
4. The Contractor agrees that DHHS Data or derivative there from disclosed to an End User must only be used pursuant to the terms of this Contract.
5. The Contractor agrees DHHS Data obtained under this Contract may not be used for any other purposes that are not indicated in this Contract.
6. The Contractor agrees to grant access to the data to the authorized representatives of DHHS for the purpose of inspecting to confirm compliance with the terms of this Contract.

II. METHODS OF SECURE TRANSMISSION OF DATA

1. Application Encryption. If End User is transmitting DHHS data containing Confidential Data between applications, the Contractor attests the applications have been evaluated by an expert knowledgeable in cyber security and that said application's encryption capabilities ensure secure transmission via the internet.
2. Computer Disks and Portable Storage Devices. End User may not use computer disks or portable storage devices, such as a thumb drive, as a method of transmitting DHHS data.
3. Encrypted Email. End User may only employ email to transmit Confidential Data if email is encrypted and being sent to and being received by email addresses of persons authorized to receive such information.
4. Encrypted Web Site. If End User is employing the Web to transmit Confidential Data, the secure socket layers (SSL) must be used and the web site must be secure. SSL encrypts data transmitted via a Web site.
5. File Hosting Services, also known as File Sharing Sites. End User may not use file hosting services, such as Dropbox or Google Cloud Storage, to transmit Confidential Data.
6. Ground Mail Service. End User may only transmit Confidential Data via *certified* ground mail within the continental U.S. and when sent to a named individual.
7. Laptops and PDA. If End User is employing portable devices to transmit Confidential Data said devices must be encrypted and password-protected.
8. Open Wireless Networks. End User may not transmit Confidential Data via an open



wireless network. End User must employ a virtual private network (VPN) when remotely transmitting via an open wireless network.

9. Remote User Communication. If End User is employing remote communication to access or transmit Confidential Data, a virtual private network (VPN) must be installed on the End User's mobile device(s) or laptop from which information will be transmitted or accessed.
10. SSH File Transfer Protocol (SFTP), also known as Secure File Transfer Protocol. If End User is employing an SFTP to transmit Confidential Data, End User will structure the Folder and access privileges to prevent inappropriate disclosure of information. SFTP folders and sub-folders used for transmitting Confidential Data will be coded for 24-hour auto-deletion cycle (i.e. Confidential Data will be deleted every 24 hours).
11. Wireless Devices. If End User is transmitting Confidential Data via wireless devices, all data must be encrypted to prevent inappropriate disclosure of information.

III. RETENTION AND DISPOSITION OF IDENTIFIABLE RECORDS

The Contractor will only retain the data and any derivative of the data for the duration of this Contract. After such time, the Contractor will have 30 days to destroy the data and any derivative in whatever form it may exist, unless, otherwise required by law or permitted under this Contract. To this end, the parties must:

A. Retention

1. The Contractor agrees it will not store, transfer or process data collected in connection with the services rendered under this Contract outside of the United States. This physical location requirement shall also apply in the implementation of cloud computing, cloud service or cloud storage capabilities, and includes backup data and Disaster Recovery locations.
2. The Contractor agrees to ensure proper security monitoring capabilities are in place to detect potential security events that can impact State of NH systems and/or Department confidential information for contractor provided systems.
3. The Contractor agrees to provide security awareness and education for its End Users in support of protecting Department confidential information.
4. The Contractor agrees to retain all electronic and hard copies of Confidential Data in a secure location and identified in section IV. A.2
5. The Contractor agrees Confidential Data stored in a Cloud must be in a FedRAMP/HITECH compliant solution and comply with all applicable statutes and regulations regarding the privacy and security. All servers and devices must have currently-supported and hardened operating systems, the latest anti-viral, anti-hacker, anti-spam, anti-spyware, and anti-malware utilities. The environment, as a

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whole, must have aggressive intrusion-detection and firewall protection.

6. The Contractor agrees to and ensures its complete cooperation with the State's Chief Information Officer in the detection of any security vulnerability of the hosting infrastructure.

B. Disposition

1. If the Contractor will maintain any Confidential Information on its systems (or its sub-contractor systems), the Contractor will maintain a documented process for securely disposing of such data upon request or contract termination; and will obtain written certification for any State of New Hampshire data destroyed by the Contractor or any subcontractors as a part of ongoing, emergency, and or disaster recovery operations. When no longer in use, electronic media containing State of New Hampshire data shall be rendered unrecoverable via a secure wipe program in accordance with industry-accepted standards for secure deletion and media sanitization, or otherwise physically destroying the media (for example, degaussing) as described in NIST Special Publication 800-88, Rev 1, Guidelines for Media Sanitization, National Institute of Standards and Technology, U. S. Department of Commerce. The Contractor will document and certify in writing at time of the data destruction, and will provide written certification to the Department upon request. The written certification will include all details necessary to demonstrate data has been properly destroyed and validated. Where applicable, regulatory and professional standards for retention requirements will be jointly evaluated by the State and Contractor prior to destruction.
2. Unless otherwise specified, within thirty (30) days of the termination of this Contract, Contractor agrees to destroy all hard copies of Confidential Data using a secure method such as shredding.
3. Unless otherwise specified, within thirty (30) days of the termination of this Contract, Contractor agrees to completely destroy all electronic Confidential Data by means of data erasure, also known as secure data wiping.

IV. PROCEDURES FOR SECURITY

A. Contractor agrees to safeguard the DHHS Data received under this Contract, and any derivative data or files, as follows:

1. The Contractor will maintain proper security controls to protect Department confidential information collected, processed, managed, and/or stored in the delivery of contracted services.
2. The Contractor will maintain policies and procedures to protect Department confidential information throughout the information lifecycle, where applicable, (from creation, transformation, use, storage and secure destruction) regardless of the media used to store the data (i.e., tape, disk, paper, etc.).

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New Hampshire Department of Health and Human Services

Exhibit K

DHHS Information Security Requirements



3. The Contractor will maintain appropriate authentication and access controls to contractor systems that collect, transmit, or store Department confidential information where applicable.
4. The Contractor will ensure proper security monitoring capabilities are in place to detect potential security events that can impact State of NH systems and/or Department confidential information for contractor provided systems.
5. The Contractor will provide regular security awareness and education for its End Users in support of protecting Department confidential information.
6. If the Contractor will be sub-contracting any core functions of the engagement supporting the services for State of New Hampshire, the Contractor will maintain a program of an internal process or processes that defines specific security expectations, and monitoring compliance to security requirements that at a minimum match those for the Contractor, including breach notification requirements.
7. The Contractor will work with the Department to sign and comply with all applicable State of New Hampshire and Department system access and authorization policies and procedures, systems access forms, and computer use agreements as part of obtaining and maintaining access to any Department system(s). Agreements will be completed and signed by the Contractor and any applicable sub-contractors prior to system access being authorized.
8. If the Department determines the Contractor is a Business Associate pursuant to 45 CFR 160.103, the Contractor will execute a HIPAA Business Associate Agreement (BAA) with the Department and is responsible for maintaining compliance with the agreement.
9. The Contractor will work with the Department at its request to complete a System Management Survey. The purpose of the survey is to enable the Department and Contractor to monitor for any changes in risks, threats, and vulnerabilities that may occur over the life of the Contractor engagement. The survey will be completed annually, or an alternate time frame at the Departments discretion with agreement by the Contractor, or the Department may request the survey be completed when the scope of the engagement between the Department and the Contractor changes.
10. The Contractor will not store, knowingly or unknowingly, any State of New Hampshire or Department data offshore or outside the boundaries of the United States unless prior express written consent is obtained from the Information Security Office leadership member within the Department.
11. Data Security Breach Liability. In the event of any security breach Contractor shall make efforts to investigate the causes of the breach, promptly take measures to prevent future breach and minimize any damage or loss resulting from the breach. The State shall recover from the Contractor all costs of response and recovery from

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the breach, including but not limited to: credit monitoring services, mailing costs and costs associated with website and telephone call center services necessary due to the breach.

12. Contractor must, comply with all applicable statutes and regulations regarding the privacy and security of Confidential Information, and must in all other respects maintain the privacy and security of PI and PHI at a level and scope that is not less than the level and scope of requirements applicable to federal agencies, including, but not limited to, provisions of the Privacy Act of 1974 (5 U.S.C. § 552a), DHHS Privacy Act Regulations (45 C.F.R. §5b), HIPAA Privacy and Security Rules (45 C.F.R. Parts 160 and 164) that govern protections for individually identifiable health information and as applicable under State law.
13. Contractor agrees to establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality of the Confidential Data and to prevent unauthorized use or access to it. The safeguards must provide a level and scope of security that is not less than the level and scope of security requirements established by the State of New Hampshire, Department of Information Technology. Refer to Vendor Resources/Procurement at <https://www.nh.gov/doi/vendor/index.htm> for the Department of Information Technology policies, guidelines, standards, and procurement information relating to vendors.
14. Contractor agrees to maintain a documented breach notification and incident response process. The Contractor will notify the State's Privacy Officer and the State's Security Officer of any security breach immediately, at the email addresses provided in Section VI. This includes a confidential information breach, computer security incident, or suspected breach which affects or includes any State of New Hampshire systems that connect to the State of New Hampshire network.
15. Contractor must restrict access to the Confidential Data obtained under this Contract to only those authorized End Users who need such DHHS Data to perform their official duties in connection with purposes identified in this Contract.
16. The Contractor must ensure that all End Users:
 - a. comply with such safeguards as referenced in Section IV A. above, implemented to protect Confidential Information that is furnished by DHHS under this Contract from loss, theft or inadvertent disclosure.
 - b. safeguard this information at all times.
 - c. ensure that laptops and other electronic devices/media containing PHI, PI, or PFI are encrypted and password-protected.
 - d. send emails containing Confidential Information only if encrypted and being sent to and being received by email addresses of persons authorized to receive such information.



DHHS Information Security Requirements

- e. limit disclosure of the Confidential Information to the extent permitted by law.
- f. Confidential Information received under this Contract and individually identifiable data derived from DHHS Data, must be stored in an area that is physically and technologically secure from access by unauthorized persons during duty hours as well as non-duty hours (e.g., door locks, card keys, biometric identifiers, etc.).
- g. only authorized End Users may transmit the Confidential Data, including any derivative files containing personally identifiable information, and in all cases, such data must be encrypted at all times when in transit, at rest, or when stored on portable media as required in section IV above.
- h. in all other instances Confidential Data must be maintained, used and disclosed using appropriate safeguards, as determined by a risk-based assessment of the circumstances involved.
- i. understand that their user credentials (user name and password) must not be shared with anyone. End Users will keep their credential information secure. This applies to credentials used to access the site directly or indirectly through a third party application.

Contractor is responsible for oversight and compliance of their End Users. DHHS reserves the right to conduct onsite inspections to monitor compliance with this Contract, including the privacy and security requirements provided in herein, HIPAA, and other applicable laws and Federal regulations until such time the Confidential Data is disposed of in accordance with this Contract.

V. LOSS REPORTING

The Contractor must notify the State's Privacy Officer and Security Officer of any Security Incidents and Breaches immediately, at the email addresses provided in Section VI.

The Contractor must further handle and report Incidents and Breaches involving PHI in accordance with the agency's documented Incident Handling and Breach Notification procedures and in accordance with 42 C.F.R. §§ 431.300 - 306. In addition to, and notwithstanding, Contractor's compliance with all applicable obligations and procedures, Contractor's procedures must also address how the Contractor will:

- 1. Identify Incidents;
- 2. Determine if personally identifiable information is involved in Incidents;
- 3. Report suspected or confirmed Incidents as required in this Exhibit or P-37;
- 4. Identify and convene a core response group to determine the risk level of Incidents and determine risk-based responses to Incidents; and

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New Hampshire Department of Health and Human Services

Exhibit K

DHHS Information Security Requirements



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5. Determine whether Breach notification is required, and, if so, identify appropriate Breach notification methods, timing, source, and contents from among different options, and bear costs associated with the Breach notice as well as any mitigation measures.

Incidents and/or Breaches that implicate PI must be addressed and reported, as applicable, in accordance with NH RSA 359-C:20.

VI. PERSONS TO CONTACT

A. DHHS Privacy Officer:

DHHSPrivacyOfficer@dhhs.nh.gov

B. DHHS Security Officer:

DHHSInformationSecurityOffice@dhhs.nh.gov

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1/26/19

State of New Hampshire
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that MERCER HEALTH & BENEFITS LLC is a Delaware Limited Liability Company registered to transact business in New Hampshire on April 13, 2005. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 534548

Certificate Number: 0004611248



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 28th day of October A.D. 2019.

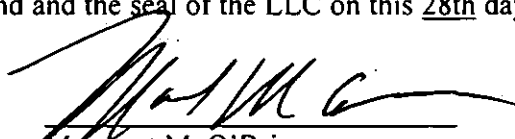
A handwritten signature in black ink, appearing to read "Wm Gardner".

William M. Gardner
Secretary of State

CERTIFICATE OF THE ASSISTANT SECRETARY
OF
MERCER HEALTH & BENEFITS LLC

I, Margaret M. O'Brien, Assistant Secretary of Mercer Health & Benefits LLC, a Delaware limited liability company (the "LLC") certify that at a duly authorized meeting of the Board of Directors of the LLC, dated February 11, 2010, the Board adopted procedures authorizing any Principal, Partner or Senior Partner of the LLC, including the list of individuals attached hereto, to execute contracts, agreements, applications and other instruments on behalf of the LLC. This resolution has neither been amended nor rescinded and is in full force and effect as of the date hereof.


IN WITNESS WHEREOF, I have set my hand and the seal of the LLC on this 28th day of October 2019.


Margaret M. O'Brien
Assistant Secretary

State of New York)

County of New York)

On this 28th day of October 2019 before me personally appeared Margaret M. O'Brien, to me known, who executed the foregoing instrument.


Notary Public

Sandra Davenport
Notary Public - State of New York
No. 01DA6139698
Qualified in Nassau County
Certified in New York County
Commission Expires February 20, 2022



MERCER

MAKE TOMORROW, TODAY

AUTHORIZED SIGNATORIES

Name	Title
Margaret O'Brien, JD	Assistant Secretary
Deidra Abbott	Principal
Margery Ault	Principal
Scott Banken	Principal
Denise Blank	Principal
Kathy Botson	Principal
Holly Brown	Principal
Stewart Campbell	Principal
Charlotte Carito	Principal
Kristin Coyle	Principal
Tom Dahl	Principal
An Danh	Principal
Lisa Deyer	Principal
Brad Diaz	Principal
Holly Dolgaard	Principal
Kimberly Donica	Principal
Sara Drake	Principal
Jennie Echols	Principal
Katie Falls	Principal
Kate Goergen	Principal
Elizabeth Gould	Principal
Marcie Gunnell	Principal
Jay Hall	Principal
Dianne Heffron	Principal
Leena Hiilivirta	Principal
Heather Huff	Principal
Bridget Huss	Principal
Candace Jacobs	Principal
Ryan Johnson	Principal
Jon Jolley	Principal
Marta Kalleberg	Principal
Robert Karsten	Principal
Scott Katterman	Principal
Shellie Keast	Principal
Shawna Kittridge	Principal
Michael Krein	Principal
Bill Lasowski	Principal
Charles Lassiter	Principal
Katherine Long	Principal



**MARSH & MCLENNAN
COMPANIES**

AUTHORIZED SIGNATORIES

Page 2

Kate Lyon	Principal
James Matthisen	Principal
Meredith Mayeri	Principal
Laura Nelson	Principal
Robert O'Brien	Principal
Katie Olecik	Principal
Olga Olsen	Principal
Jessica Osborne	Principal
Laura Pavlecic	Principal
Sherri Poindexter	Principal
Gina Pompa	Principal
Kelsey Rea-Clark	Principal
Brad Rhodes	Principal
Cindy Rodgers	Principal
Kevin Russell	Principal
Joel Schuenke	Principal
Adam Sery	Principal
Doug Shannon	Principal
Maureen Sharp	Principal
Gowri Shetty	Principal
Gabe Smith	Principal
Sheree Swanson	Principal
Anna Theisen-Olson	Principal
Shawn Thiele Sacks	Principal
Michele Walker	Principal
Dan Wendt	Principal
Wendy Woske	Principal
Mac Xu	Principal
Bei Zhu	Principal
Misti Beckman	Partner
Sam Espinosa	Partner
Frederick Gibison	Partner
Ann Marie Janusek	Partner
Stacey Lampkin	Partner
Jonathan Marsden	Partner
Jim Meulemans	Partner
Michael Nordstrom	Partner
Ronald Ogborne	Partner
Branch McNeal	Senior Partner
Angela WasDyke	Senior Partner



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/25/2019

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

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

PRODUCER Marsh USA, Inc. 1166 Avenue of the Americas New York, NY 10036 Attn: NewYork.Certs@marsh.com Fax: 212-948-0500	CONTACT NAME: _____	
	PHONE (A/C No. Ext): _____	FAX (A/C No): _____
E-MAIL ADDRESS: _____		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A : National Union Fire Insurance Co. of Pittsburgh, PA		19445
INSURER B : Illinois National Ins Co		23817
INSURER C : New Hampshire Ins Company		23841
INSURER D : American Home Assurance Company		19380
INSURER E : _____		
INSURER F : _____		

COVERAGES **CERTIFICATE NUMBER:** NYC-010758969-01 **REVISION NUMBER:** 7

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

INSR LTR	TYPE OF INSURANCE	ADDITIONAL SUBROGATION	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER: _____		GL 6862448	09/30/2019	09/30/2020	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 2,000,000 MED EXP (Any one person) \$ 25,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMPROP AGG \$ 4,000,000 \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED \$ RETENTION \$		28295255	09/30/2019	09/30/2020	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input checked="" type="checkbox"/> N/A		WC 017515901 (AOS)	09/30/2019	09/30/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 2,000,000 E.L. DISEASE - EA EMPLOYEE \$ 2,000,000 E.L. DISEASE - POLICY LIMIT \$ 2,000,000
C	Workers Compensation Continued		WC 017515902 AK,AZ,IL,KY,NC,NH,NJ,PA,UT,VA,VT	09/30/2019	09/30/2020	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER New Hampshire Department of Health and Human Services 129 Pleasant Street Concord, NH 03301-3857	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE of Marsh USA Inc. Daniel Rivera <i>Daniel P. Rivera</i>
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ENDORSEMENT #

This endorsement, effective 12:01 A.M. 09/30/2019 forms a part of

Policy No. GL 686-24-48 issued to MARSH & MCLENNAN COMPANIES, INC.

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL
TO ENTITIES OTHER THAN THE FIRST NAMED INSURED**

This policy is amended as follows:

In the event that the Insurer cancels this policy for any reason other than non-payment of premium, and

1. the cancellation effective date is prior to this policy's expiration date;
2. the **First Named Insured** is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the "Certificate Holder(s)") and has provided to the Insurer, either directly or through its broker of record, the email address of a contact at each such entity; and
3. the Insurer received this information after the **First Named Insured** receives notice of cancellation of this policy and prior to this policy's cancellation effective date, via an electronic spreadsheet that is acceptable to the Insurer,

the Insurer will provide advice of cancellation (the "Advice") via e-mail to each such Certificate Holders within 30 days after the **First Named Insured** provides such information to the Insurer; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the **First Named Insured** provides such information to the Insurer.

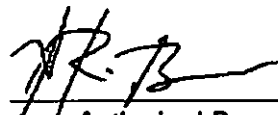
Proof of the Insurer emailing the Advice, using the information provided by the **First Named Insured**, will serve as proof that the Insurer has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following Definitions apply to this endorsement:

1. **First Named Insured** means the Named Insured shown on the Declarations Page of this policy.
2. **Insurer** means the insurance company shown in the header on the Declarations page of this policy.

All other terms, conditions and exclusions shall remain the same.



Authorized Representative

CALIFORNIA ADVANCE NOTICE OF CANCELLATION OR NON-RENEWAL BY US EXTENDED

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy).

This endorsement, effective 12:01 AM 09/30/2019 forms a part of Policy No. WC 017-51-5903

Issued to MARSH & MCLENNAN COMPANIES, INC.

By AMERICAN HOME ASSURANCE COMPANY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

PART SIX - CONDITIONS, D. - Cancellation, 2. is deleted in its entirety and replaced with:

We may cancel or non-renew this policy. We will mail or deliver to you not less than 10 days advance written notice of cancellation for reasons (a) through (g) and 30 days advance written notice of cancellation for reasons (h) through (m) of California Cancellation Endorsement WC990017. We will mail or deliver to you not less than 30 days and not more than 120 days advance written notice of non-renewal.

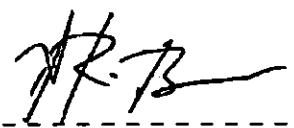
Except for non-payment of premium and non-payment of loss reimbursement or non-delivery of satisfactory security or collateral when due, for which we will provide advance written notice in accordance with the provisions of any applicable statute or regulation, we shall not provide less than the number of days set forth below.

Mailing that notice to you, at your mailing address shown in Item 1 of the Information Page will be sufficient to prove notice.

Cancellation: 90 Days

Non-Renewal: 90 Days

Countersigned by _____



Authorized Representative