

B
MAC



**STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH SERVICES**

Lori A. Shibinette
Commissioner

Lisa M. Morris
Director

29 HAZEN DRIVE, CONCORD, NH 03301
603-271-4501 1-800-852-3345 Ext. 4501
Fax: 603-271-4827 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

January 19, 2021

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

INFORMATIONAL ITEM

Pursuant to RSA 4:45, RSA 21-P:43, and Section 4 of Executive Order 2020-04 as extended by Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, 2020-15, 2020-16, 2020-17, 2020-18, 2020-20, 2020-21, 2020-23, 2020-24, and 2020-25, Governor Sununu has authorized the Department of Health and Human Services, Division of Public Health Services, to enter into a **Sole Source** amendment to an existing contract with Mary Hitchcock Memorial Hospital (VC#177160), Lebanon, NH, to provide COVID-19 testing to residents and staff of long-term care and other residential facilities, by extending the completion date from March 31, 2021, to June 30, 2021, effective upon Governor approval with no change to the price limitation of \$6,520,000. 100% Federal Funds.

The original contract was approved by Governor Sununu on May 11, 2020, as presented to the Governor and Executive Council on May 20, 2020 (Informational Item #B), and most recently amended with Governor approval on August 31, 2020, as presented to the Governor and Executive Council on September 23, 2020 (Informational Item #E).

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

**05-95-90-903010-19010000 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SVCS
DEPT OF, HHS: DIVISION OF PUBLIC HEALTH, BUREAU OF LABORATORY SERVICES,
ELC CARES COVID-19, 100% FEDERAL FUNDS**

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2021	102-500731	Contracts for Prog Svc	90183518	\$6,520,000	\$0	\$6,520,000
			Subtotal	\$6,520,000	\$0	\$6,520,000

05-95-90-902510-70390000 HEALTH AND SOCIAL SERVICES; DEPT OF HEALTH AND HUMAN SVS, HHS: DIVISION OF PUBLIC HEALTH, BUREAU OF INFECTIOUS DISEASE CONTROL, PUBLIC HEALTH CRISIS RESPONSE

State Fiscal Year	Class / Account	Class Title	Job Number	Total Amount	Increased (Decreased) Amount	Revised Budget
2020	102-500731	Contracts for Prog Svc	90027027	\$520,000	\$0	\$520,000
2021	102-500731	Contracts for Prog Svc	90027027	(\$520,000)	\$0	(\$520,000)
			Subtotal	\$0	\$0	\$0
			Total	\$6,520,000	\$0	\$6,520,000

EXPLANATION

This amendment is **Sole Source** because the contract was originally approved as sole source and MOP 150 requires any subsequent amendments to be labeled as sole source. This contract was originally approved as a sole source contract because the Department, in the interest of the public's health and safety, determined the Contractor had the capacity to assist in processing the high number of COVID-19 tests.

The purpose of this amendment is to extend the contract so the Contractor can continue to coordinate COVID-19 pre-testing, testing, and post-testing functions at long-term care and other facilities as designated by the Department. The Contractor is providing test collection supplies to the facilities, obtaining all specimen, and completing laboratory testing. The expectation is that the Contractor will test up to 600 COVID-19 tests per day. The Contractor will complete approximately eight (8) testing cycles every 7 to 12 days, as requested by the Department and depending upon the trajectory of the COVID-19 pandemic.

The Department will monitor contracted services using the following performance measures:

- 100% of results are available within seventy-two (72) hours.
- 100% of testing cycles shall occur at approximately ten (10) day intervals, with a lower limit of seven (7) days and an upper limit of twelve (12) days.

As referenced in Exhibit A of the original contract, the parties have the option to extend the agreement for up to four (4) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties, and appropriate State approval. The Department is exercising its option to renew services for three (3) months of the four (4) years available.

Area served: Statewide

Source of Funds: CFDA #93.323, FAIN # NU50CK000522

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

Respectfully submitted,



Lori A. Shibinette
Commissioner

File

**New Hampshire Department of Health and Human Services
COVID Sample Testing**



**State of New Hampshire
Department of Health and Human Services
Amendment #2 to the COVID Sample Testing Contract**

This 2nd Amendment to the COVID Sample Testing contract (hereinafter referred to as "Amendment #2") is by and between the State of New Hampshire, Department of Health and Human Services (hereinafter referred to as the "State" or "Department") and Mary Hitchcock Memorial Hospital, (hereinafter referred to as "the Contractor"), a nonprofit with a place of business at One Medical Center Dr, Lebanon, NH, 03756.

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor on May 11, 2020, as subsequently presented to the Executive Council on May 20, 2020 (Informational Item #B), as amended with Governor approval on August 31, 2020, as subsequently presented to the Executive Council on September 23, 2020 (Informational Item #E), the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract as amended and in consideration of certain sums specified; and

WHEREAS, pursuant to Form P-37, General Provisions, Paragraph 17, the Contract may be amended upon written agreement of the parties and approval from the appropriate State approval; and

WHEREAS, the parties agree to modify the scope of services to support continued delivery of these services; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the Contract and set forth herein, the parties hereto agree to amend as follows:

1. Form P-37 General Provisions, Block 1.7, Completion Date, to read:
June 30, 2021.

[Handwritten Signature]
[Handwritten Date: 2/1/21]

New Hampshire Department of Health and Human Services
COVID Sample Testing



All terms and conditions of the Contract and prior amendments not inconsistent with this Amendment #2 remain in full force and effect. This amendment shall be effective upon the Governor's approval, as issued under the Executive Order 2020-04 as extended by Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, 2020-15, 2020-16, 2020-17, 2020-18, 2020-20, 2020-21, 2020-023 and 2020-24 and any subsequent extensions.

IN WITNESS WHEREOF, the parties have set their hands as of the date written below,

State of New Hampshire
Department of Health and Human Services

02/03/2021
Date

[Signature]
Name:
Title:

2/1/2021
Date

Mary Hitchcock Memorial Hospital
[Signature]
Name: *Edward J. Merrens*
Title: *Chief Clinical Officer*

State of New Hampshire

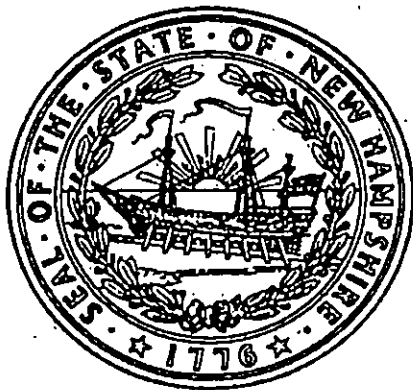
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that MARY HITCHCOCK MEMORIAL HOSPITAL is a New Hampshire Nonprofit Corporation registered to transact business in New Hampshire on August 07, 1889. 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: 68517

Certificate Number: 0004924643



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 3rd day of June A.D. 2020.

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

William M. Gardner
Secretary of State



Dartmouth-Hitchcock
Dartmouth-Hitchcock Medical Center
1 Medical Center Drive
Lebanon, NH 03756
Dartmouth-Hitchcock.org

CERTIFICATE OF VOTE/AUTHORITY

I, Charles G. Plimpton, of Dartmouth-Hitchcock Clinic and Mary Hitchcock Memorial Hospital, do hereby certify that:

1. I am the duly elected Treasurer and Secretary of the Board of Trustees of Dartmouth-Hitchcock Clinic and Mary Hitchcock Memorial Hospital;
2. The following is a true and accurate excerpt from the December 7th, 2012 Bylaws of Dartmouth-Hitchcock Clinic and Mary Hitchcock Memorial Hospital:

ARTICLE I – Section A. Fiduciary Duty. Stewardship over Corporate Assets

“In exercising this [fiduciary] duty, the Board may, consistent with the Corporation’s Articles of Agreement and these Bylaws, delegate authority to the Board of Governors, Board Committees and various officers the right to give input with respect to issues and strategies, incur indebtedness, make expenditures, enter into contracts and agreements and take such other binding actions on behalf of the Corporation as may be necessary or desirable.”

3. Article I – Section A, as referenced above, provides authority for the chief officers, including the Chief Executive Officer, the Chief Clinical Officer, and other officers, of Dartmouth-Hitchcock Clinic and Mary Hitchcock Memorial Hospital to sign and deliver, either individually or collectively, on behalf of Dartmouth-Hitchcock Clinic and Mary Hitchcock Memorial Hospital.
4. Joanne Conroy, MD is the Chief Executive Officer of Dartmouth-Hitchcock Clinic and Mary Hitchcock Memorial Hospital and therefore has the authority to enter into contracts and agreements on behalf of Dartmouth-Hitchcock Clinic and Mary Hitchcock Memorial Hospital.

IN WITNESS WHEREOF, I have hereunto set my hand as the Treasurer and Secretary of the Board of Trustees of Dartmouth-Hitchcock Clinic and Mary Hitchcock Memorial Hospital this 30th day of December, 2020.



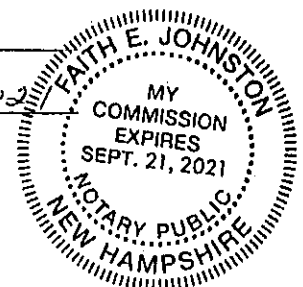
Charles G. Plimpton, Board Treasurer and Secretary

STATE OF NH
COUNTY OF GRAFTON

The foregoing instrument was acknowledged before me this 30 day of December, 2020 by Charles G. Plimpton.



Notary Public
My Commission Expires: 9-21-2021





DARTHIT-01

KJOHNSON4

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
6/23/2020

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 License # 1780862 HUB International New England 275 US Route 1 Cumberland Foreside, ME 04110	CONTACT NAME: PHONE (A/C, No, Ext): (207) 829-3450	FAX (A/C, No): (207) 829-6350
	E-MAIL ADDRESS:	
INSURED Dartmouth-Hitchcock Health 1 Medical Center Dr. Lebanon, NH 03756	INSURER(S) AFFORDING COVERAGE	
	INSURER A : Safety National Casualty Corporation	
	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	

COVERAGES	CERTIFICATE NUMBER:	REVISION NUMBER:
------------------	----------------------------	-------------------------

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

INBR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPROP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
A	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	AG4061049	7/1/2020	7/1/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Evidence of Workers Compensation coverage for Dartmouth-Hitchcock Health

CERTIFICATE HOLDER NH DHHS 129 Pleasant Street Concord, NH 03301	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
--	--

CERTIFICATE OF INSURANCE	DATE: July 1, 2020
---------------------------------	---------------------------

COMPANY AFFORDING COVERAGE
Hamden Assurance Risk Retention Group, Inc.
P.O. Box 1687
30 Main Street, Suite 330
Burlington, VT 05401

INSURED
Dartmouth-Hitchcock Clinic
One Medical Center Drive
Lebanon, NH 03756
(603)653-6850

This certificate is issued as a matter of information only and confers no rights upon the Certificate Holder. This Certificate does not amend, extend or alter the coverage afforded by the policies below.

COVERAGES

The Policy listed below has been issued to the Named Insured above for the Policy Period notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued. The insurance afforded by the policy is subject to all the terms, exclusions and conditions of the policy. Limits shown may have been reduced by paid claims.

TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE	POLICY EXPIRATION DATE	LIMITS	
GENERAL LIABILITY	0002020-A	07/01/2020	07/01/2021	EACH OCCURRENCE	\$1,000,000
				DAMAGE TO RENTED PREMISES	\$100,000
				MEDICAL EXPENSES	N/A
				PERSONAL & ADV INJURY	\$1,000,000
				GENERAL AGGREGATE	
OTHER				PRODUCTS-COMP/OP AGG	\$1,000,000
PROFESSIONAL LIABILITY				EACH CLAIM	
				ANNUAL AGGREGATE	
				CLAIMS MADE	
OCCURENCE					
OTHER					

DESCRIPTION OF OPERATIONS/ LOCATIONS/ VEHICLES/ SPECIAL ITEMS (LIMITS MAY BE SUBJECT TO RETENTIONS)

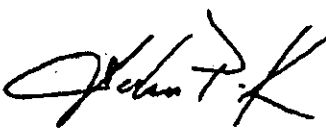
Certificate is issued as evidence of insurance only.

CERTIFICATE HOLDER

NH Dept of Health & Human Services
129 Pleasant Street
Concord, NH 03301

CANCELLATION
Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail 30 DAYS written notice to the certificate holder named below, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives.

AUTHORIZED REPRESENTATIVES



E
Mau



**STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH SERVICES**

Lori A. Shibleyette
Commissioner

Lisa M. Morris
Director

29 HAZEN DRIVE, CONCORD, NH 03301
603-271-4501 1-800-852-3345 Ext. 4501
Fax: 603-271-4827 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

September 1, 2020

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

INFORMATIONAL ITEM

Pursuant to RSA 4:45, RSA 21-P:43, and Section 4 of Executive Order 2020-04, as extended by Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, 2020-15, and 2020-16, Governor Sununu has authorized the Department of Health and Human Services, Division of Public Health Services, to enter into a **Retroactive, Sole Source** amendment to an existing contract with Mary Hitchcock Memorial Hospital (VC#177160), Lebanon, NH to provide COVID-19 testing to residents and staff of long-term care and other residential facilities, by increasing the price limitation by \$6,000,000 from \$520,000 to \$6,520,000 with no change to the contract completion date of March 31, 2021, effective retroactive to July 27, 2020. 100% Federal Funds.

The original contract was approved by Governor Sununu on May 11, 2020, and subsequently presented to the Governor and Council as informational item #B on May 20, 2020.

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

**05-95-90-903010-19010000 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SVCS
DEPT OF, HHS: DIVISION OF PUBLIC HEALTH, BUREAU OF LABORATORY SERVICES,
ELC CARES COVID-19, 100% FEDERAL FUNDS**

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2021	102-500731	Contracts for Prog Svc	90183518	\$0	\$6,520,000	\$6,520,000
			Subtotal	\$0	\$6,520,000	\$6,520,000

05-95-90-902510-70390000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: DIVISION OF PUBLIC HEALTH, BUREAU OF INFECTIOUS DISEASE CONTROL, PUBLIC HEALTH CRISIS RESPONSE

State Fiscal Year	Class / Account	Class Title	Job Number	Total Amount	Increased (Decreased) Amount	Revised Budget
2020	102-500731	Contracts for Prog Svc	90027027	\$520,000	\$0	\$520,000
2021	102-500731	Contracts for Prog Svc	90027027	\$0	(\$520,000)	(\$520,000)
			Subtotal	\$520,000	(\$520,000)	\$0
			Total	\$520,000	\$6,000,000	\$6,520,000

EXPLANATION

This item is **Retroactive** because the Contractor needed to immediately begin COVID-19 testing to residents and staff of long-term care and other residential facilities. The Department is increasing the rate at which residents and staff of long-term care and other residential facilities are tested in order to help those facilities respond to the COVID-19 pandemic in the manner that best protects residents and staff. MOP 150 requires this item be labeled as **Sole Source** because the Department is: (1) amending an existing sole source contract; (2) adding additional scope not included in the original contract; and (3) increasing the original price limitation by more than 10 percent of the original contract amount.

The original contract required the Contractor to provide laboratory services to assist in testing COVID-19 samples sent to the Public Health Laboratories from medical providers. The purpose of this amendment is to add scope and funding for the Contractor to coordinate COVID-19 pre-testing, testing, and post-testing functions at long-term care and other facilities as designated by the Department. The Contractor is providing test collection supplies to the facilities, obtaining all specimen, and completing laboratory testing. The expectation is that the vendor will test up to six hundred (600) COVID-19 tests per day. The Contractor will complete approximately eight (8) testing cycles, every seven (7) to twelve (12) days as requested by the Department and depending upon the trajectory of the COVID-19 pandemic.

The Department will monitor contracted services using the following performance measures:

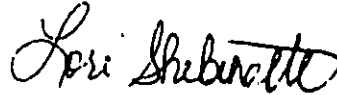
- 100% of results are available within seventy-two (72) hours.
- 100% of testing cycles shall occur at approximately ten (10) day intervals, with a lower limit of seven (7) days and an upper limit of twelve (12) days.

As referenced in Exhibit A of the original contract, the parties have the option to extend the agreement for up to four (4) additional years, contingent upon satisfactory delivery of services; available funding, agreement of the parties and Governor and Council approval. The Department is not exercising its option to renew at this time.

Area served: Statewide

Source of Funds: CFDA #93.323, FAIN # NU50CK000522

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lori Shibinette". The signature is written in a cursive, flowing style.

Lori A. Shibinette
Commissioner

**New Hampshire Department of Health and Human Services
COVID Sample Testing**



**State of New Hampshire
Department of Health and Human Services
Amendment #1 to the COVID Sample Testing**

This 1st Amendment to the COVID Sample Testing contract (hereinafter referred to as "Amendment #1") is by and between the State of New Hampshire, Department of Health and Human Services (hereinafter referred to as the "State" or "Department") and Mary Hitchcock Memorial Hospital, (hereinafter referred to as "the Contractor"), a nonprofit with a place of business at One Medical Center Dr, Lebanon, NH, 03756.

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor on May 11, 2020, the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract and in consideration of certain sums specified; and

WHEREAS, pursuant to Form P-37, General Provisions, Paragraph 17, the Contract may be amended upon written agreement of the parties and approval from the appropriate State approval; and

WHEREAS, the parties agree to increase the price limitation and modify the scope of services to support continued delivery of these services and to add new services; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the Contract and set forth herein, the parties hereto agree to amend as follows:

1. Form P-37, General Provisions, Block 1.8, Price Limitation, to read:
\$6,520,000.
2. Modify Exhibit A, Revisions to Standard Contract Provisions, in its entirety and replace it with Exhibit A, Revisions to Standard Contract Provisions, Amendment #1, which is attached hereto and incorporated by reference herein.
3. Modify Exhibit B Section 3 Exhibits Incorporated, Section 3.1 to read:
3.1 The Contractor shall use and disclose Protected Health Information in compliance with the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule) (45 CFR Parts 160 and 164) under the Health Insurance Portability and Accountability Act (HIPAA) of 1996.
4. Add Exhibit B-1, Additional Scope of Services, which is attached hereto and incorporated by reference herein.
5. Modify Exhibit C, Payment Terms, in its entirety and replace it with Exhibit C, Payment Terms, Amendment #1, which is attached hereto and incorporated by reference herein.
6. Modify Exhibit I, Business Associate Agreement, by deleting it in its entirety.

Contractor Initials *EMH*
Date *8/17/20*

New Hampshire Department of Health and Human Services
COVID Sample Testing



All terms and conditions of the Contract not inconsistent with this Amendment #1 remain in full force and effect. This amendment shall be effective retroactively to July 27, 2020 subject to the Governor's approval issued under the Executive Order 2020-04 as extended by Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, and 2020-14.

IN WITNESS WHEREOF, the parties have set their hands as of the date written below,

State of New Hampshire
Department of Health and Human Services

8/13/2020
Date

[Signature]
Name: AnnLarson
Title: ASSE. COMMISSIONER

Mary Hitchcock Memorial Hospital

8/12/2020
Date

[Signature]
Name: Edward Cummings MD
Title: Chief Clinical Officer

New Hampshire Department of Health and Human Services
COVID Sample Testing



The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

08/17/20

Date

Catherine Pinos

Name: Catherine Pinos, Attorney
Title:

I hereby certify that the foregoing Amendment was approved by the Governor approval issued under the Executive Order 2020-04 as extended by Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, and 2020-14.

OFFICE OF THE SECRETARY OF STATE

Date

Name:
Title:



REVISIONS TO STANDARD CONTRACT PROVISIONS

1. Revisions to Form P-37, General Provisions

- 1.1. Paragraph 3, Subparagraph 3.1, Effective Date/Completion of Services, is amended as follows:
 - 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 as indicated in block 1.17, this Agreement, and all obligations of the parties hereunder, shall become effective on March 24, 2020 ("Effective Date").
- 1.2. Paragraph 3, Subparagraph 3.2, Effective Date/Completion of Services, is deleted in its entirety and replaced as follows:
 - 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 use reasonable efforts to complete all Services by the Completion Date specified in block 1.7.
- 1.3. Paragraph 3, Effective Date/Completion of Services, is amended by adding subparagraph 3.3 as follows:
 - 3.3. The parties may extend the Agreement for up to four (4) additional years from the Completion Date, contingent upon satisfactory delivery of services, available funding, agreement of the parties, and approval of the Governor and Executive Council.
- 1.4. Paragraph 7, Subparagraph 7.1, Personnel, is deleted in its entirety and replaced as follows:
 - 7.1. The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor certifies 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.

DM
Date 8/12/20



EXHIBIT A, Amendment #1

1.5. Paragraph 9, Subparagraph 9.1, Termination, is amended to include the following language:

9.1(a) The Contractor may terminate the Agreement by providing the State with thirty (30) days advance written notice if the State fails to pay the undisputed amount of any expense report submitted by Contractor pursuant to Exhibit C within thirty (30) days after the date of the report; however, upon receipt of such notification the State has an additional twenty (20) days to make payment of undisputed amounts to avoid termination.

9.1.(b) The Contractor may terminate this Agreement with thirty (30) days advance written notice (the "Notification Period") if it makes a good faith determination that the fulfillment of its obligations under the Agreement or the continued performance of services hereunder: (i) has been or is reasonably likely to be adversely impacted by a shortage of supplies or a disruption to the supply chain; or (ii) would adversely impact the ability of the Contractor to meet the testing needs of its patients (each an "Adverse Impact"). Prompting following Contractor's submission of such notice of termination, the Parties shall work together in good faith with the goal of mutually agreeing upon modifications to the scope of services and/or other obligations of Contractor under the Agreement to mitigate the Adverse Impact upon the Contractor during the Notification Period ("Workaround Plan"); provided, however, that if the Parties are unable to mutually agree on a Workaround Plan within five (5) business days after Contractor provides written notice of termination to the Department as a result of an Adverse Impact, the Contractor may, upon written notice to the Department, decrease the number of COVID-19 tests it performs per day under the Agreement, as specified in Paragraph 1.1 of Exhibit B-1, to not more than three hundred (300) per day for the remainder of the Notification Period.

9.1 (c) In the event that the Contractor makes a good faith determination that the fulfillment of its obligations under the Agreement or the continued performance of services hereunder would cause the Contractor to violate any requirements or standards of any government agency or accrediting body, the Contractor may terminate this Agreement upon written notice, and will provide as much prior notice to the Department as may be practicable under the circumstances.

1.6. Paragraph 12, Assignment/Delegation/Subcontracts, is amended by adding subparagraph 12.3 as follows:

[Handwritten Signature]
Date 8/11/20



EXHIBIT A, Amendment #1

- 12.3. Subcontractors are subject to the same contractual conditions as the Contractor and the Contractor is responsible to ensure subcontractor compliance with those conditions. The Contractor shall have written agreements with all subcontractors, specifying the work to be performed and how corrective action shall be managed if the subcontractor's performance is inadequate. The Contractor shall manage the subcontractor's performance on an ongoing basis and take corrective action as necessary. The Contractor shall annually provide the State with a list of all subcontractors provided for under this Agreement and notify the State of any inadequate subcontractor performance.
- 1.7. Paragraph 13, Indemnification, is deleted in its entirety and replaced as follows:
13. **CONTRACTOR LIABILITY.** The Contractor is responsible and liable for any personal injury or property damages caused by its, its employees, agents, contractors and subcontractors' action or omission.
- 1.8. Paragraph 14, Subparagraph 14.1.2, Insurance, is deleted in its entirety and replaced as follows:
- 14.1.2. Professional liability insurance in the amount of \$1,000,000 per occurrence and \$3,000,000 per annual aggregate.
- 1.9. Paragraph 14, Subparagraph 14.2, is deleted in its entirety and is replaced as follows:
- 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

[Handwritten Signature]
Date *8/12/20*



EXHIBIT B-1, Amendment #1

Additional Scope of Services

1. Statement of Work

- 1.1. The Contractor shall provide the following services:
 - 1.1.1. Perform, at the request of the Department, up to six hundred (600) COVID-19 tests per day, Monday through Friday only, for long term care facilities. The Department shall closely monitor the number of tests it sends to the Contractor each day and shall not send the Contractor more than 600 specimens per day for COVID-19 testing, unless otherwise agreed to by the Contractor as set forth in the section immediately below. Other facilities or entities by mutual agreement of the Parties.
 - 1.1.2. At the written request of the Department and as specifically may be agreed upon in writing by the Contractor's Laboratory Director or his designee(s), the Contractor will perform additional COVID-19 tests for long term care facilities or for other facilities or entities. The Department's written request (which may be delivered to the Laboratory Director or his designee by email, at the email address(es) provided by the Laboratory Director) for additional testing pursuant to this section shall set forth in detail the specifics of the request, including, for example, the number of additional tests requested each day, and the time period over which such additional testing is requested.
- 1.2. The Contractor shall conduct COVID-19 pre-testing, testing, and post-testing functions, as approved by the Department. The Contractor shall:
 - 1.2.1. Provide test collection supplies to the facilities or entities specified by the Department, in quantities specified by the Department, by courier or overnight delivery service, which supplies shall include:
 - 1.2.1.1. Test requisition forms;
 - 1.2.1.2. Anterior nares or other acceptable specimen collection swabs such as nasopharyngeal swabs;
 - 1.2.1.3. Transport tubes and transport media;
 - 1.2.1.4. Packaging necessary for courier pickup or return mail; and
 - 1.2.1.5. Instructions for collection and storage of specimens to each long term care or other facility or entity.
 - 1.2.2. Obtain all specimens and complete paper test requisitions.
 - 1.2.3. Perform all pre-testing processing of paper test requisitions.
 - 1.2.4. Perform the RT-PCR diagnostic Sars CoV-2 test.

[Handwritten Signature]
Date 8/12/20

New Hampshire Department of Health and Human Services
COVID-19 Sample Testing
EXHIBIT B-1, Amendment #1



- 1.2.5. Use commercially reasonable efforts to communicate results to the facility (as consent allows) and the Department within seventy-two (72) hours from testing.
 - 1.2.5.1. If the Contractor experiences a delay in communicating results, it must notify the Department immediately after it becomes aware of the delay.
 - 1.2.5.2. All results, positive and negative, shall be reported electronically through the Division of Public Health Service's electronic laboratory reporting (ELR) system.
- 1.3. The Contractor agrees to provide the pre-testing, testing and post-testing functions set forth above for the following estimated test volumes and test cycles:
 - 1.3.1. Volume is set forth in Paragraph 1.1 above.
 - 1.3.2. There shall be approximately eight (8) testing cycles, although the Department may decrease or increase this number, subject to the Price Limitation.
 - 1.3.3. Testing cycles shall occur at approximately ten (10) day intervals, with a lower limit of seven (7) days and an upper limit of twelve (12) days.
 - 1.3.3.1. The Division of Public Health Services and the Contractor may agree to a different testing interval.
 - 1.3.4. Other testing cycles as directed by the Department.
2. **Billing**
 - 2.1. For facility or entity staff during the first eight (8) testing cycles following the Effective Date of this Agreement, the Contractor shall bill the Division of Public Health Services at a rate of \$65.00 per test in accordance with the payment terms in Exhibit C. If the Department requests testing to continue after the first eight (8) testing cycles for facility or entity staff, it shall provide updated billing instructions.
 - 2.2. For facility or entity occupants during the first eight (8) testing cycles following the Effective Date of this Agreement, the Contractor shall bill the individual's insurance. If the Department requests testing to continue thereafter, it shall provide updated billing instructions.
 - 2.2.1. If the Contractor is unable to obtain full payment from the individual's health insurer or other payer if applicable, the Contractor shall submit a claim for payment to the Department which shall include the following information:
 - 2.2.1.1. The individual's identification number;

[Handwritten Signature]

[Handwritten Date] 8/12/20



EXHIBIT B-1, Amendment #1

- 2.2.1.2. Facility or individual's address;
- 2.2.1.3. Insurance status;
- 2.2.1.4. Reason for claim; and
- 2.2.1.5. Amount of claim, up to \$65.00 per test.

3. Confidentiality

- 3.1. Any and all confidential information obtained or received by the Contractor shall be kept confidential and shall not be disclosed to anyone for any reason, unless required by law. "Confidential Information" means all information owned, managed, created, or received from the Individuals, the Department, any other agency of the State, or any medical provider, that is protected by Federal or State information security, privacy or confidentiality laws or rules. Confidential Information includes, but is not limited to, Derivative Data, protected health information (PHI), personally identifiable information (PII), federal tax information (FTI), Social Security Administration information (SSA) and criminal justice information services (CJIS) and any other sensitive confidential information provided under the Agreement. This covenant shall survive the termination of the Agreement.
- 3.2. The Contractor shall comply with the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule) (45 CFR Parts 160 and 164) under the Health Insurance Portability and Accountability Act (HIPAA) of 1996.
- 3.3. The Contractor's Use and Responsibilities for Confidential Information are as follows.
 - 3.3.1. The Contractor agrees to use, disclose, maintain, or transmit Confidential Data from Providers as required, specifically authorized, or permitted under the Contract or this Agreement. Further, the Contractor, including but not limited to all its directors, officers, employees, and agents, agrees not to use, disclose, maintain, or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rules. The Contractor shall provide Confidential Information as required by the Contract, RSA 141-C:7, RSA 141-C:9, RSA 141-C:10 and in a form required by Administrative Rule He-P 301.03 and the "New Hampshire Local Implementation Guide for Electronic Laboratory Reporting using HL7 2.5.1," Version 4.0 (5/23/2016), found at <https://www.dhhs.nh.gov/dphs/bphsi/documents/elrguide.pdf>.
 - 3.3.2. The Contractor shall transmit the Confidential Information to the Division of Public Health Services by means of a secure file transport

8/12/20



EXHIBIT B-1, Amendment #1

protocol (sFTP) provided by the Department and agreed to by the parties and approved by the Department's Information Security Officer.

3.3.2.1. Any individual seeking credentials to access the sFTP site shall sign and return to the Department a "Data Use and Confidentiality Agreement" (Attachment A) when requesting sFTP account.

3.3.3. The Contractor shall transmit the Confidential Information to the Division of Public Health Services as required by statute, and as stated in this Exhibit B-1, namely:

3.3.3.1. All test results, including but not limited to positive and negative results, shall be reported electronically via the ELR as outlined in New Hampshire Local Implementation Guide for ELR Using HL 7.2.5.1, Version 4.0, 5/23/2016 found at <https://www.dhhs.nh.gov/dphs/bphsi/documents/elrguide.pdf>.

3.4. Use commercially reasonable efforts to provide test results within 24 hours of the test being completed through the methods set forth in this Exhibit B-1. As necessary, the Contractor agrees to comply with any request to correct or complete the data once transmitted to the Division of Public Health Services.

3.5. The Contractor agrees that the data submitted shall be the "minimum necessary" to carry out the stated use of the data, as defined in the HIPAA Privacy Rule and in accordance with all applicable confidentiality laws.

4. Reporting Requirements

4.1. The Contractor shall, except as otherwise set forth below, submit weekly reports to ensure all testing completed is traced, which include, but are not limited to:

4.1.1. Each individual from whom a specimen was obtained, including their full name.

4.1.2. The name and address of the testing site.

4.1.3. Name of operating or contracting agency associated with the site, as applicable.

4.1.4. Result of COVID-19 testing on these specimens, if available.

4.2. Information on when results were communicated to the appropriate ordering medical provider and facility (as consent allows) will be established and reported via the auto/fax which sets for the date and time of transmission. All reports required under this section shall be sent via secure email to Covidtesting@dhhs.nh.gov.

8/12/20



EXHIBIT B-1, Amendment #1

5. Performance Measures

- 5.1. The Contractor shall actively and regularly collaborate with the Department to enhance contract management, improve results, and adjust program delivery and policy to ensure successful outcomes.
- 5.2. The Contractor may be required to provide other key data and metrics to the Department, including client-level demographic, performance, and service data.
 - 5.2.1. Where applicable, the Contractor shall collect and share data with the Department in a format specified by the Department.

6. Additional Terms

6.1. Amendment

- 6.1.1. The Contractor and the Department agree to negotiate an amendment to this Agreement as needed to address a change in terms, or any changes in policy issues, fiscal issues, information security, and other specific safeguards required for maintaining confidentiality of the data.

6.2. Impacts Resulting from Court Orders or Legislative Changes

- 6.2.1. The Contractor agrees that, to the extent future state or federal legislation, Governor executive orders, or court orders may have an impact on the Services described herein, the State has the right to modify Service priorities and expenditure requirements under this Agreement so as to achieve compliance therewith.

6.3. Force Majeure

- 6.3.1. Any delays in performance by a party under the contract shall not be considered a breach of the contract if and to the extent caused by occurrences beyond the reasonable control of the party affected: acts of God, embargoes, governmental restrictions, strikes, pandemics, fire, earthquake, flood, explosion, riots, wars, civil disorder, rebellion, or sabotage. The party suffering such occurrence shall immediately notify the other party of the occurrence of the Force Majeure event (in reasonable detail) and the expected duration of the event's effect on the party. A disruption in a party's performance due to Force Majeure extending beyond a stated period may be the cause for termination of the Contract at the sole discretion of the State. The State reserves the right to extend any time for performance by the actual time of the delay caused by the occurrence, provided that the party affected by the event uses reasonable efforts to overcome such delay. Notwithstanding anything in this provision, Force Majeure shall not

[Handwritten initials]

[Handwritten date: 8/12/20]



EXHIBIT B-1, Amendment #1

include the novel coronavirus COVID-19 pandemic which is ongoing as of the date of the execution of this Contract. In the event that the Contractor's performance under the contract may be delayed due to a supply chain disruption or shortage and/or other similar occurrences completely outside of Contractor's control, the Contractor must notify the State of such delay and the State, at its sole discretion, may modify the delivery of services due to the circumstances. Said discretion on the part of the State to modify the delivery of services will not be unreasonably withheld, delayed, or conditioned.

7. Records

- 7.1. The Contractor shall keep records that include, but are not limited to:
 - 7.1.1. Records reflecting all income received or collected by the Contractor under this Agreement.
- 7.2. 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. 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.

8. Federal Civil Rights Laws Compliance: Culturally and Linguistically Appropriate Programs and Services

- 8.1. The Contractor shall submit, within ten (10) days of the Effective Date of this Agreement, a detailed description of the communication access and language assistance services they will provide to ensure meaningful access to their programs and/or services to persons with limited English proficiency, people who are deaf or have hearing loss, are blind or have low vision, or who have speech challenges.

EM

8/12/20

New Hampshire Department of Health and Human Services
COVID-19 Sample Testing

EXHIBIT C Amendment #1



Payment Terms

1. For the purposes of this Agreement, the Department has identified the Contractor as a Contractor, in accordance with 2 CFR 200.0. et seq.
2. Payment for services billed to the State of New Hampshire in accordance with Exhibit B, Scope of Services, shall be on a cost reimbursement basis for actual expenditures incurred in the fulfillment of this Agreement, as specified below:

Rate Per Test	\$65
---------------	------

3. Payment for services billed to the State of New Hampshire in accordance with Exhibit B-1, Additional Scope of Work, shall be on a cost reimbursement basis for actual expenditures incurred in the fulfillment of this Agreement, as specified below:

Rate Per Test	\$65
---------------	------

- 3.1. The Contractor shall submit an invoice for each testing interval described in Exhibit B-1, Additional Scope of Work, which identifies and requests reimbursement for the total number of testing kits requested by the State. The Contractor shall ensure the invoice is completed, dated and returned to the Department in order to initiate payment.
4. The Contractor shall submit an invoice in a form satisfactory to the State by the fifteenth (15th) working day of the following month, which identifies and requests reimbursement for the number of tests performed in the prior month. The Contractor shall ensure the invoice is completed, dated and returned to the Department in order to initiate payment.
5. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to PHLAccountsPayable@dhhs.nh.gov, or invoices may be mailed to:
Financial Manager
Department of Health and Human Services
Division of Public Health Services
Attn: Public Health Laboratories
29 Hazen Drive
Concord, NH 03301.
6. 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

[Handwritten Signature]
Date *8/12/20*

New Hampshire Department of Health and Human Services
COVID-19 Sample Testing

EXHIBIT C Amendment #1



sufficient funds are available, subject to Paragraph 4 of the General Provisions Form Number P-37 of this Agreement.

7. 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.
8. The Contractor must provide the services in Exhibit B, Scope of Services and Exhibit B-1, Additional Scope of Work, in compliance with funding requirements.
9. The Contractor agrees that funding under this Agreement may be withheld, in whole or in part in the event of non-compliance with the terms and conditions of Exhibit B, Scope of Services and Exhibit B-1, Additional Scope of Work.
10. 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.
11. Notwithstanding Paragraph 18 of the General Provisions Form P-37, changes limited to adjusting amounts within the price limitation and adjusting encumbrances between State Fiscal Years through the Budget Office may be made by written agreement of both parties, without obtaining approval of the Governor and Executive Council, if needed and justified.
12. Audits
 - 12.1. The Contractor is required to submit an annual audit to the Department if any of the following conditions exist:
 - 12.1.1. Condition A - The Contractor expended \$750,000 or more in federal funds received as a subrecipient pursuant to 2 CFR Part 200, during the most recently completed fiscal year.
 - 12.1.2. Condition B - The Contractor is subject to audit pursuant to the requirements of NH RSA 7:28, III-b, pertaining to charitable organizations receiving support of \$1,000,000 or more.
 - 12.1.3. Condition C - The Contractor is a public company and required by Security and Exchange Commission (SEC) regulations to submit an annual financial audit.
 - 12.2. If Condition A exists, the Contractor shall submit an annual single audit performed by an independent Certified Public Accountant (CPA) to the Department within 120 days after the close of the Contractor's fiscal year, conducted in accordance with the requirements of 2 CFR Part

EON
8/27/20



EXHIBIT C Amendment #1

200, Subpart F of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards.

- 12.3. If Condition B or Condition C exists, the Contractor shall submit an annual financial audit performed by an independent CPA within 120 days after the close of the Contractor's fiscal year.
- 12.4. 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.

[Handwritten Signature]
[Handwritten Date: 8/12/20]



Lori A. Skibbette
Commissioner

Lisa M. Morris
Director

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH SERVICES

19 HAZEN DRIVE, CONCORD, NH 03301
603-271-4501 1-800-852-3345 Ext. 4501
Fax: 603-271-4827 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

B
mac

May 12, 2020

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

INFORMATIONAL ITEM

Pursuant to RSA 4:45, RSA 4:47, and Section 4 of Executive Order 2020-04 as extended by Executive Orders 2020-05 and 2020-08, Governor Sununu has authorized the Department of Health and Human Services, Division of Public Health Services, to enter into a **Retroactive, Sole Source** contract with Mary Hitchcock Memorial Hospital (VC#177180), Lebanon, NH in the amount of \$520,000 for COVID-19 laboratory testing services, with the option to renew for up to four (4) additional years, retroactive to March 24, 2020 through March 31, 2021. 100% Federal Funds.

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

05-85-80-902510-70380000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: DIVISION OF PUBLIC HEALTH, BUREAU OF INFECTIOUS DISEASE CONTROL, PUBLIC HEALTH CRISIS RESPONSE

State Fiscal Year	Class / Account	Class Title	Job Number	Total Amount
2020	102-500731	Contracts for Prog Svc	90027027	\$520,000
2021	102-500731	Contracts for Prog Svc	90027027	\$0
			Total	\$520,000

EXPLANATION

This item is **Retroactive** and **Sole Source** to allow the Department to increase testing of COVID-19 samples, to rapidly respond to the COVID-19 Pandemic. The Department's Public Health Laboratories reached out to the vendor to assist in processing the high number of COVID-19 test.

The purpose of this contract is for the vendor to provide laboratory services to assist in the testing of the COVID-19 samples that are sent to the Public Health Laboratories from medical providers. The Department anticipates an increase in the number of individuals being tested for COVID-19. In order to keep up with the demand, Public Health Laboratories will send samples to the vendor's lab to complete the testing. Due to the high demand, the Department has budgeted

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
Page 2 of 2

all funding in State Fiscal Year 2020, not to exceed \$520,000 (\$52 per test), and plans to carry forward any unspent funds to address needs in the next fiscal year.

The vendor will be providing laboratory testing on COVID-19 samples that are received by the Public Health Laboratories. Once the samples are received testing will occur by an authorized staff member of the vendor's Department of Pathology & Laboratory Medicine. The results of the test will be sent to Public Health Laboratories. After the testing and results have been received, the vendor will dispose of the specimen.

The Department will monitor contracted services using the following performance measures:

- Ensuring results are received within twenty-four to forty-eight (24-48) hours after the sample has been delivered.
- Ensuring availability to complete testing twenty-four (24) hours a day/ seven (7) days a week.

As referenced in Exhibit A, Revisions to Standard Contract Provisions, Section 1. Revisions to Form P-37 General Provisions, Section 1.2 of the attached contract, the parties have the option to extend the agreement for up four (4) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and Governor and Council approval.

Area served: Statewide

Source of Funds: 100% Federal Funds from the Centers of Disease Control CFDA #93.354/ FAIN # NU90TP922108

Respectfully submitted,


Lon A. Shibinette
Commissioner




Subject: COVID Sample Testing (SS-2020-DPHS-14-SAMPL-01)


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

I. IDENTIFICATION:			
1.1 State Agency Name New Hampshire Department of Health and Human Services		1.2 State Agency Address 129 Pleasant Street Concord, NH 03301-3837	
1.3 Contractor Name Mary Hitchcock Memorial Hospital		1.4 Contractor Address One Medical Center Dr, Lebanon, NH, 03756	
1.5 Contractor Phone Number (603) 650-5000	1.6 Account Number 05-95-90-902510-7039	1.7 Completion Date March 31, 2021	1.8 Price Limitation \$520,000
1.9 Contracting Officer for State Agency Nathan D. White, Director		1.10 State Agency Telephone Number (603) 271-9631	
1.11 Contractor Signature  4/8/2020		1.12 Name and Title of Contractor Signatory Edward J. Merrens, MD Chief Clinical Officer	
1.13 State Agency Signature  Date: 4/8/2020		1.14 Name and Title of State Agency Signatory Ann Larcher Assoc. Col. M. S. A.	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: 4/10/2020			
1.17 Approval by the Governor and Executive Council (if applicable) O&C Item number: _____ G&C Meeting Date: _____			

Contractor Initials: 
Date: 4/8/2020

2. 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 B 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 1.17, 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 1.13 ("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 effected 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 for Services provided in EXHIBIT B, in whole or in part. 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 reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source 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 C 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 applicable 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 employment opportunity laws. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property 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 The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

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

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

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

8 EVENT OF DEFAULT/REMEDIES.

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

8.1.1 failure to perform the Services satisfactorily or on schedule,

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

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

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

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely cured, 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 give the Contractor a written notice specifying the Event of Default and 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 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

8.3 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.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, 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 B. In addition, at the State's discretion, the Contractor shall, within 15 days of notice of early termination, develop and

submit to the State a Transition Plan for services under the Agreement.

10. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

10.1 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.

10.2 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.

10.3 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.

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.

12.1 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the State at least fifteen (15) days prior to the assignment, and a written consent of the State. For purposes of this paragraph, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the

Contractor Initials

Date

[Signature]
4/8/20

Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. 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 continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial 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 or excess; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 10.2 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 ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

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. The 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. 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.

17. 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.

18. CHOICE OF LAW AND FORUM. This Agreement shall be governed, interpreted and 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. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

19. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and/or attachments and amendment thereof, the terms of the P-37 (as modified in EXHIBIT A) shall control.

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 or modifying provisions set forth in the attached EXHIBIT A 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 with respect to the subject matter hereof.

Contractor Initials
Date
[Signature]



EXHIBIT A

REVISIONS TO STANDARD CONTRACT PROVISIONS

1. Revisions to Form P-37, General Provisions

1.1. Paragraph 3, Subparagraph 3.1, Effective Date/Completion of Services, is amended as follows:

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 as indicated in block 1.17, this Agreement, and all obligations of the parties hereunder, shall become effective on March 24, 2020 ("Effective Date").

1.2. Paragraph 3, Subparagraph 3.2, Effective Date/Completion of Services, is deleted in its entirety and replaced as follows:

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 use reasonable efforts to complete all Services by the Completion Date specified in block 1.7.

1.3. Paragraph 3, Effective Date/Completion of Services, is amended by adding subparagraph 3.3 as follows:

3.3. The parties may extend the Agreement for up to four (4) additional years from the Completion Date, contingent upon satisfactory delivery of services, available funding, agreement of the parties, and approval of the Governor and Executive Council.

1.4. Paragraph 7, Subparagraph 7.1, Personnel, is deleted in its entirety and replaced as follows:

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor certifies 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.

1.5. Paragraph 9, Subparagraph 9.2, Termination, is deleted in its entirety and is replaced as follows:

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's

2/18/20



EXHIBIT A

discretion, 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 B.

- 1.8. Paragraph 12, Assignment/Delegation/Subcontracts, is amended by adding subparagraph 12.3 as follows:
 - 12.3. Subcontractors are subject to the same contractual conditions as the Contractor and the Contractor is responsible to ensure subcontractor compliance with those conditions. The Contractor shall have written agreements with all subcontractors, specifying the work to be performed and how corrective action shall be managed if the subcontractor's performance is inadequate. The Contractor shall manage the subcontractor's performance on an ongoing basis and take corrective action as necessary. The Contractor shall annually provide the State with a list of all subcontractors provided for under this Agreement and notify the State of any inadequate subcontractor performance.
- 1.7. Paragraph 13, Indemnification, is deleted in its entirety and replaced as follows:
 13. CONTRACTOR LIABILITY. The Contractor is responsible and liable for any personal injury or property damages caused by its, its employees, agents, contractors and subcontractors' action or omission.
- 1.8. Paragraph 14, Subparagraph 14.1.2, Insurance, is deleted in its entirety and replaced as follows:
 - 14.1.2. Professional liability insurance in the amount of \$1,000,000 per occurrence and \$3,000,000 per annual aggregate.
- 1.9. Paragraph 14, Subparagraph 14.2, is deleted in its entirety and is replaced as follows:
 - 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 or registered to conduct business in the State of New Hampshire.



EXHIBIT B

Scope of Services

1. Statement of Work

- 1.1. For the purposes of this Agreement, all references to days shall mean calendar days.
- 1.2. The Contractor staff with a Dartmouth-Hitchcock badge, and the designation of Department of Pathology & Laboratory Medicine (located 4th Floor Borwell Building, 1 Medical Center Drive, Lebanon, NH) is authorized to receive COVID-19 sample deliveries from the State's Public Health Laboratories (hereinafter PHL).
- 1.3. The Contractor shall:
 - 1.3.1. Provide laboratory testing on all COVID-19 specimens received from PHL.
 - 1.3.2. Provide all consumable supplies necessary to conduct all tests described in this contract, at no additional cost to the Department
 - 1.3.3. Provide results to PHL via an encrypted email that has the laboratory ID of the specimen with the result identified.
 - 1.3.4. Provide results to PHL within twenty-four to forty-eight (24-48) hours after the sample has been delivered to the laboratory.
 - 1.3.5. Dispose of the sample seven days after results have been provided to PHL.
 - 1.3.6. Provide a method of communication, either by email or phone, with authorized staff at all times while handling PHL specimens and samples.
- 1.4. The Contractor shall ensure the Department of Pathology & Laboratory Medicine is available to provide the services under this agreement 24 hours a day, 7 days a week.
- 1.5. The Contractor shall maintain the confidentiality and integrity of supply, sample and specimen information.
- 1.6. The Contractor shall provide all laboratory services, which include laboratory services referenced, that meet the requirements of College of American Pathologists ("CAP"), the Clinical Laboratory Improvement Act of 1988 (CLIA), as amended, or any other applicable accrediting bodies.
- 1.7. The Contractor shall notify the Department in writing within five (5) working days after receiving notification that:
 - 1.7.1. Any of the above mentioned services do not meet these requirements;
or

SS-2020-DPHS-14-SAMPL-01

Dartmouth Hitchcock Medical Center

Page 1 of 3

Contractor Initials

Res

Handwritten signature and initials in black ink, appearing to be 'D. M.' and '9/8/20'.



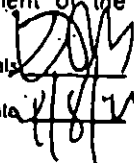
EXHIBIT B

- 1.7.2. The Contractor as a whole did not meet CAP on any other applicable accrediting agencies requirements.
- 1.8. The Contractor shall ensure and make available to the Department:
 - 1.8.1. Documentation Indicating authorized staff are trained annually in, and abide by, CLIA regulations
 - 1.8.1.1. Occupational Safety and Health Administration (OSHA) Blood-borne Pathogen rules.
2. **Performance Measures**
 - 2.1. The Department will monitor Contractor performance by ensuring there is <5% failure rate in the testing results.
3. **Exhibits Incorporated**
 - 3.1. The Contractor shall use and disclose Protected Health Information in compliance with the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule) (45 CFR Parts 160 and 164) under the Health Insurance Portability and Accountability Act (HIPAA) of 1996, and in accordance with the attached Exhibit I, Business Associate Agreement, which has been executed by the parties.
 - 3.2. The Contractor shall manage all confidential data related to this Agreement in accordance with the terms of Exhibit K, DHHS Information Security Requirements.
 - 3.3. The Contractor shall comply with all Exhibits D through K, which are attached hereto and incorporated by reference herein.
4. **Additional Terms**
 - 4.1. **Impacts Resulting from Court Orders or Legislative Changes**
 - 4.1.1. The Contractor agrees that, to the extent future state or federal legislation or court orders may have an impact on the Services described herein, the State has the right to modify Service priorities and expenditure requirements under this Agreement so as to achieve compliance therewith.
5. **Records**
 - 5.1. The Contractor shall keep records that include, but are not limited to:
 - 5.1.1. Records reflecting all income received or collected by the Contractor under this Agreement.
 - 5.2. 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. Upon the purchase by the Department of the

SS-2020-DPHS-14-SAMPL-01

Contractor Initials

Date



New Hampshire Department of Health and Human Services
COVID-19 Sample Testing



EXHIBIT B

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.

SS-2020-DPHS-14-SAMPL-01

Dartmouth Hitchcock Medical Center

Page 3 of 3

Contractor Initials

Date

[Handwritten initials]
[Handwritten date]



EXHIBIT C

Payment Terms

1. This Agreement is funded by:
 - 1.1. 100%, Federal Funding, Public Health Crisis Response Grant, from the Centers for Disease Control, CFDA #93.354/ FAIN # NU90TP922106.
2. For the purposes of this Agreement:
 - 2.1. The Department has identified the Contractor as a Contractor, in accordance with 2 CFR 200.0. et seq.
 - 2.2. The de minimis Indirect Cost Rate of 10% applies in accordance with 2 CFR §200.414.
 - 2.3. The Department has identified this Contract as NON-R&D, in accordance with 2 CFR §200.87.
3. Payment shall be on a cost reimbursement basis for actual expenditures incurred in the fulfillment of this Agreement, as specified below.

Rate Per Test	\$52
---------------	------

4. The Contractor shall submit an invoice in a form satisfactory to the State by the fifteenth (15th) working day of the following month, which identifies and requests reimbursement for the number of tests performed in the prior month. The Contractor shall ensure the invoice is completed, dated and returned to the Department in order to initiate payment.
5. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to PHLAccountsPayableDPHContractBilling@dhhs.nh.gov, or invoices may be mailed to:

Financial Manager
Department of Health and Human Services
Division of Public Health Services
Attn: Public Health Laboratories
29 Hazen Drive
Concord, NH 03301
6. 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, subject to Paragraph 4 of the General Provisions Form Number P-37 of this Agreement.

[Handwritten Signature]
Date *4/8/20*

New Hampshire Department of Health and Human Services
COVID-19 Sample Testing



EXHIBIT C

7. 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.
8. The Contractor must provide the services in Exhibit B, Scope of Services, in compliance with funding requirements.
9. The Contractor agrees that funding under this Agreement may be withheld, in whole or in part, in the event of non-compliance with the terms and conditions of Exhibit B, Scope of Services.
10. 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.
11. Notwithstanding Paragraph 18 of the General Provisions Form P-37, changes limited to adjusting amounts within the price limitation and adjusting encumbrances between State Fiscal Years through the Budget Office may be made by written agreement of both parties, without obtaining approval of the Governor and Executive Council, if needed and justified.
12. Audits
 - 12.1. The Contractor is required to submit an annual audit to the Department if any of the following conditions exist:
 - 12.1.1. Condition A - The Contractor expended \$750,000 or more in federal funds received as a subrecipient pursuant to 2 CFR Part 200, during the most recently completed fiscal year.
 - 12.1.2. Condition B - The Contractor is subject to audit pursuant to the requirements of NH RSA 7:28, III-b, pertaining to charitable organizations receiving support of \$1,000,000 or more.
 - 12.1.3. Condition C - The Contractor is a public company and required by Security and Exchange Commission (SEC) regulations to submit an annual financial audit.
 - 12.2. If Condition A exists, the Contractor shall submit an annual single audit performed by an independent Certified Public Accountant (CPA) to the Department within 120 days after the close of the Contractor's fiscal year, conducted in accordance with the requirements of 2 CFR Part 200, Subpart F of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards.

Signature
Date 4/8/20

New Hampshire Department of Health and Human Services
COVID-19 Sample Testing



EXHIBIT C

-
- 12.3. If Condition B or Condition C exists, the Contractor shall submit an annual financial audit performed by an independent CPA within 120 days after the close of the Contractor's fiscal year.
- 12.4. 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.

[Handwritten signature]
[Handwritten date: 4/8/20]



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 GRANTEE 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

[Handwritten Signature]
[Handwritten Date]

New Hampshire Department of Health and Human Services
Exhibit D



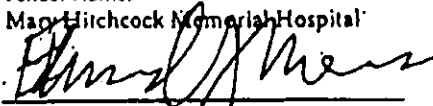
has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

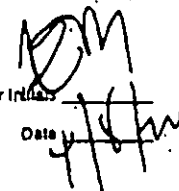
- 1.6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 1.4.2, with respect to any employee who is so convicted
 - 1.6.1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements 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.

4/8/20
Date

Vendor Name:
May Hitchcock Memorial Hospital

Name: Edward J. Messeri
Title: Chief Clinical Officer





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 101-124, 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.

4/8/20

Date

Vendor Name:

Mary Hitchcock Memorial Hospital

Edward P. Hennes

Name: Edward P. Hennes

Title: Chief Clinical Officer

Vendor Initials

EM

Date
4/8/20



**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

[Handwritten Signature]
[Handwritten Date]



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 (f)(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.

4/8/20

Date

Vendor Name:
Mary Hitchcock Memorial Hospital
Edward J. Merrens
Name: Edward J. Merrens
Title: Chief Clinical Officer

Vendor Initials

Date



**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, 1885-86), 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

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

Vendor Initials

[Handwritten Signature]
Date

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.

4/8/20
Date

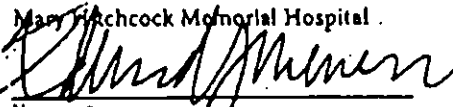

Vendor Name:
Mary Hitchcock Memorial Hospital

Name: Edward G. Morris
Title: Chief Clinical Officer

Exhibit G

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

Vendor Initials


4/8/20
Date



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.

4/8/20
Date

Vendor Name:
May Hitchcock Memorial Hospital
Edward J. Mennis
Name: Edward J. Mennis,
Title: Chief Clinical Officer

Vendor Initials: EM
Date: 4/8/20



Exhibit I

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT
BUSINESS ASSOCIATE AGREEMENT

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

(1) **Definitions.**

- a. **"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.

EDM
4/16/14



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 five (5) business days 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 (l). 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 the

[Handwritten Signature]
[Handwritten Date: 1/18/14]



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 164.528.
- 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 five (5) 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

[Handwritten Signature]
[Handwritten Date]



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.

3/2014

Contractor Initials

Date

[Handwritten Signature]
[Handwritten Date]



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 effect 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) l, 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
Anneto W. Leamy
 Signature of Authorized Representative
Ann Leamy
 Name of Authorized Representative
ASSIC - Commissioner
 Title of Authorized Representative
4/8/20
 Date

Mary Hitchcock Memorial Hospital
 Name of the Contractor
Edward J. Menneris
 Signature of Authorized Representative
EDWARD J. MENNERIS
 Name of Authorized Representative
Chief Clinical Officer
 Title of Authorized Representative
4/8/20
 Date

[Signature]
 Contractor Date
4/8/20



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 Contractor 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 Contractor 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.

4/8/20
Date

Contractor Name:
Mary Hitchcock Memorial Hospital

Edward J. Mercens
Name: Edward J. Mercens
Title: Chief Clinical Officer

EM
4/8/20



FORM A

As the Contractor 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 0699102970000
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?

X 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(b) 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 _____

EM
1/18/10

New Hampshire Department of Health and Human Services
DHHS Security Requirements
Exhibit K



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," "Confidential Data," or "Data" (as defined in Exhibit K), 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'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 a security policy, which includes successful attempts) 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

October, 2018

Exhibit K
DHHS Information
Security Requirements
Page 1 of 8

Contractor Initials

[Handwritten Signature]
Date: *[Handwritten Date]*

New Hampshire Department of Health and Human Services

DHHS Security Requirements

Exhibit K



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 documents or mail.

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

October, 2018

Exhibit K
DHHS Information
Security Requirements
Page 2 of 8

Contractor Initials

Date

[Handwritten Signature]
9/18/18

New Hampshire Department of Health and Human Services

DHHS Security Requirements

Exhibit K



except as required or permitted under this Contract or required by law. 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 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. 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.

II. METHODS OF SECURE TRANSMISSION OF DATA

1. Application Encryption. If Contractor 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. Contractor may not use computer disks or portable storage devices, such as a thumb drive, as a method of transmitting DHHS Data.
3. Encrypted Email. Contractor 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 Contractor 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. Contractor may not use file hosting services, such as Dropbox or Google Cloud Storage, to transmit Confidential Data.
6. Ground Mail Service. Contractor 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 Contractor is employing portable devices to transmit Confidential Data said devices must be encrypted and password-protected.
8. Open Wireless Networks. Contractor 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 Contractor is employing remote communication to

RM
02/1/18 M

New Hampshire Department of Health and Human Services

DHHS Security Requirements

Exhibit K



access or transmit Confidential Data, a secure method of transmission or remote access, which complies with the terms and conditions of Exhibit K, must be used.

10. SSH File Transfer Protocol (SFTP), also known as Secure File Transfer Protocol. If Contractor 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 Contractor 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 DHHS Data and any derivative of the data for the duration of this Contract. After such time, the Contractor will have thirty (30) days to destroy the data and any derivative in whatever form it may exist, unless, otherwise required by law or, if it is infeasible to return or destroy DHHS Data, protections are extended to such information, in accordance with the termination provisions in this Section. 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 accessed or utilized for purposes of carrying out this contract.
3. The Contractor agrees to provide security awareness and education for its End Users in support of protecting DHHS 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, current, updated, and

[Handwritten Signature]
[Handwritten Date]

New Hampshire Department of Health and Human Services

DHHS Security Requirements

Exhibit K



maintained anti-malware (e.g. anti-viral, anti-hacker, anti-spam, anti-spyware) utilities. The environment, as a 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

If the Contractor maintains any Confidential Information on its systems (or its sub-contractor systems) and it has not done so previously, the Contractor will implement policies and procedures to ensure that any storage media on which such data maybe recorded will be rendered unreadable and that the data will be un-recoverable when the storage media is disposed of. Upon request, the Contractor will provide the Department with copies of these policies and with written documentation demonstrating compliance with the policies. The written documentation will include all details necessary to demonstrate data contained in the storage media has been rendered unreadable and un-recoverable. Where applicable, regulatory and professional standards for retention requirements may be jointly evaluated by the State and Contractor prior to destruction.

1. 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.
2. 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

October, 2016

Exhibit K
DHHS Information
Security Requirements
Page 6 of 8

Contractor Initials

Date

[Handwritten Signature]
[Handwritten Date]

New Hampshire Department of Health and Human Services
OHHS Security Requirements
Exhibit K



used to store the data (i.e., tape, disk, paper, etc.).

3. The Contractor will maintain appropriate authentication and access controls to contractor systems that collect, transmit, or store Department confidential information where applicable.
4. If the Contractor will be sub-contracting any core functions of the engagement supporting the services for State of New Hampshire, the Contractor will ensure End-User will maintain 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.
5. 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.
6. 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.
7. The Contractor will not store 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.
8. Data Security Breach Liability. In the event of any computer security incident, incident, or 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 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.
9. 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, HIPAA Privacy and Security Rules (45 C.F.R. Parts 160 and 164) and 42 C.F.R. Part 2 that govern protections for individually identifiable

October, 2018

Exhibit K
OHHS Information
Security Requirements
Page 6 of 8

Contractor Initials

Date

[Handwritten Signature]
[Handwritten Date]

New Hampshire Department of Health and Human Services
DHHS Security Requirements

Exhibit K



health information and as applicable under State law.

10. 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.
11. Contractor agrees to maintain a documented breach notification and incident response process. The Contractor must notify the DHHS Security Office and the Program Contact via the email addresses provided in Section VI of this Exhibit, immediately upon the Contractor determining that a breach or security incident has occurred and that DHHS confidential information/data may have been exposed or compromised. 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.
12. 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.
13. The Contractor is responsible for End User oversight and compliance with the terms and conditions of the contract and Exhibit K.

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 immediately notify the State's Privacy Officer, Information Security Office and Program Manager of any Security Incidents and Breaches as specified in Section IV, paragraph 11 above.

The Contractor must further handle and report Incidents and Breaches involving PHI in accordance with DHHS's documented Incident Handling and Breach Notification procedures and in accordance with the HIPAA, Privacy and Security Rules. In addition

October, 2018

EXHIBIT K
DHHS Information
Security Requirements
Page 7 of 8

Contractor Initials

Date

[Signature]
4/8/20

New Hampshire Department of Health and Human Services
DHHS Security Requirements
Exhibit K



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
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 contact for Data Management or Data Exchange issues:
DHHSInformationSecurityOffice@dhhs.nh.gov
- B. DHHS contacts for Privacy issues:
DHHSPrivacyOfficer@dhhs.nh.gov
- C. DHHS contact for Information Security issues:
DHHSInformationSecurityOffice@dhhs.nh.gov
- D. DHHS contact for Breach notifications:
DHHSInformationSecurityOffice@dhhs.nh.gov
DHHSPrivacyOfficer@dhhs.nh.gov
- E. DHHS Program Area Contact:
Christine.Bean@dhhs.nh.gov

DM
4/8/20