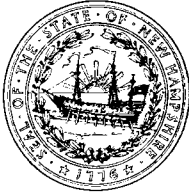


EMA

5B mac



STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF THE COMMISSIONER
OFFICE OF EMERGENCY SERVICES

Jeffrey A. Meyers
Commissioner

Leigh Cheney
Director

129 PLEASANT STREET, CONCORD, NH 03301-3857
603-271-9448 1-800-852-3345 Ext. 9448
Fax: 603-271-3001 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

October 3, 2017

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

REQUESTED ACTION

Authorize the Department of Health and Human Services, Office of the Commissioner, Office of Emergency Services to amend an agreement with Upp Technology, Inc., Vendor #209540-P001, 1 Tower Lane, Suite 1910, Oakbrook Terrace, IL 60181, for the Integrated Resource Management System (IRMS) by amending the Contractor's name to Aptean, Inc., Vendor #280097, 4325 Alexander Drive, Suite 100, Alpharetta, GA 30022 from Upp Technology, Inc. The original contract was approved on March 22, 2017 (Item #8).

This request is a no cost amendment.

EXPLANATION

The Department is requesting approval of this amendment in order to update the Integrated Resource Management System contract to reflect the Contractor was acquired by another organization. The organization formerly known as Upp Technology, Inc. has been acquired by Aptean, Inc.

The Integrated Resource Management System is a software solution that was purchased in order to meet the New Hampshire Strategic National Stockpile inventory management and patient data collection requirement. This system is currently in use by the Department of Health and Human Services, the Department of Safety, the New Hampshire National Guard, and the thirteen State Public Health Regions.

There are no additional changes to the current contract.

Should Governor and Executive Council not authorize this request the vendor may not continue to receive payment for invoices submitted under the current contract.

Respectfully submitted,

Leigh A. Cheney

Leigh Cheney
Director

Approved by:

Jeffrey A. Meyers

Jeffrey A. Meyers
Commissioner

**New Hampshire Department of Health and Human Services
Integrated Resource Management System (IRMS)**



**State of New Hampshire
Department of Health and Human Services
Amendment #1 to the
Integrated Resource Management System (IRMS)**

This 1st Amendment to the Integrated Resource Management System contract, (hereinafter referred to as "Amendment 1") dated this 26th day of June 2017, is by and between the State of New Hampshire, Department of Health and Human Services (hereinafter referred to as the "State" or "Department") and Aptean Inc., (hereinafter referred to as "the Contractor"), formerly known as Upp Technology, Inc. a Delaware for profit corporation with a principal place of business at 1 Tower Lane, Suite 1910, Oakbrook Terrace, IL 60181.

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor and Executive Council on March 22, 2017, Item #8, 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 the General Provisions, Paragraph 18, the State may modify the scope of work and the payment schedule of the contract by written agreement of the parties;

WHEREAS, the State and the Contractor have agreed to modify the contractor's name and address;

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 as follows:

The Agreement is hereby amended as follows:

1. Delete and replace General Provisions, Form P-37, Block 1.3 to read: Aptean, Inc.
2. Delete and replace General Provisions, Form P-37, Block 1.4 to read 4325 Alexander Drive, Suite 100, Alpharetta, GA 30022.
3. Delete all references to "UPP Technology, Inc." or "UPP Technology" in the contract and replace with "Aptean, Inc." respectively.
4. Delete and replace Section 4, Contract Management, Subsection 4.4, State Contract Manager with:

State Contract Manager

The State shall assign a Contract Manager who shall function as the State's representative with regard to Contract administration. The State Contract Manager is:

Jonathan V. Gallo
Interim Director
Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301
Tel: 603-271-9246
Fax: 603-271-8431
Email: Jonathan.Gallo@dhhs.nh.gov

New Hampshire Department of Health and Human Services
Integrated Resource Management System (IRMS)



This amendment shall be effective upon the date of Governor and Executive Council approval.
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

10/4/17
Date

Leigh A. Cheney
Name: Leigh A. Cheney
Title: Director, EOU

CONTRACTOR NAME
Aptean, Inc.

8/10/17
Date

Katherine Dunn
Name: Katherine Dunn
Title: Vice-President and Secretary

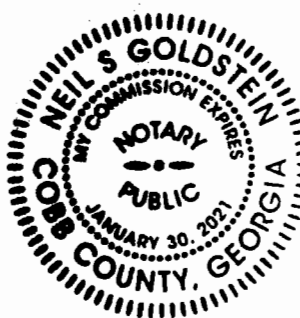
Acknowledgement of Contractor's signature:

State of Georgia, County of Fulton on Aug. 10, 2017, before the undersigned officer, personally appeared the person identified directly above, or satisfactorily proven to be the person whose name is signed above, and acknowledged that s/he executed this document in the capacity indicated above.

Neil S. Goldstein
Signature of Notary Public or Justice of the Peace

Neil S. Goldstein
Name and Title of Notary or Justice of the Peace

My Commission Expires: January 30, 2021



New Hampshire Department of Health and Human Services
Integrated Resource Management System (IRMS)



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

OFFICE OF THE ATTORNEY GENERAL

10/6/17
Date

[Signature]
Name: Lindsay Curran
Title: Attorney

I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

Date

Name:
Title:

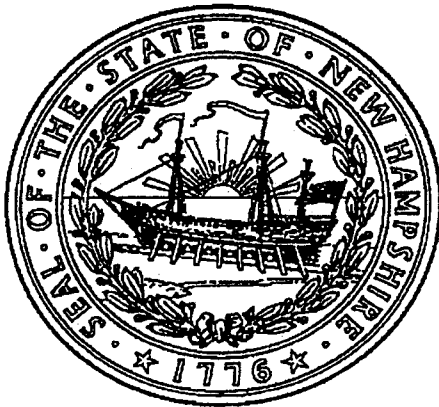
State of New Hampshire

Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that APTEAN, INC. is a Delaware Profit Corporation registered to transact business in New Hampshire on June 29, 2016. 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: 746908



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 21st day of April A.D. 2017.

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

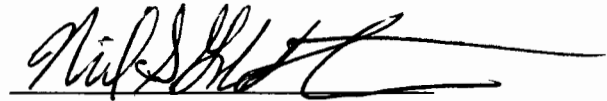
William M. Gardner
Secretary of State

CERTIFICATE OF AUTHORIZATION

I, Neil S. Goldstein, Senior Legal Counsel and Assistant Secretary for Aptean, Inc. (the "Corporation"), am responsible for keeping the secretarial records for the Corporation, including all Board of Directors' Resolutions and Shareholder Consents. I do hereby certify that:

1. Pursuant to Unanimous Written Consent in lieu of a Special Meeting dated March 31, 2017, the Board of Directors of the Corporation elected Katherine Dunn to the office of Vice President and Secretary of the Corporation and, in such capacity, authorized her to sign and execute all customer related agreements.
2. This authorization has not been revoked, annulled or amended in any manner whatsoever, and remains in full force and effect as of the date hereof.

IN WITNESS THEREOF, I have set my hand as Senior Legal Counsel and Assistant Secretary of Aptean, Inc. on this 10 day of August, 2017.

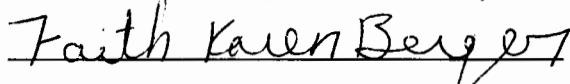

Neil S. Goldstein

State of Georgia

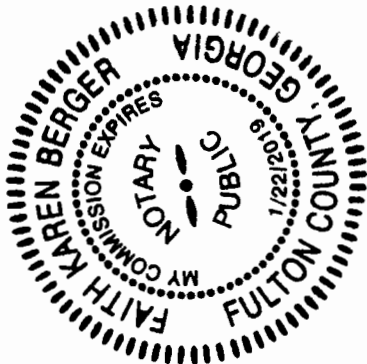
County of Fulton

On this the 10th day of August, 2017, before me, Faith Berger, the undersigned Notary Public, personally appeared Neil S. Goldstein who acknowledged himself to be Senior Legal Counsel and Assistant Secretary of Aptean, Inc. being authorized so to do, executed the foregoing instrument for the purpose therein contained.

IN WITNESS THEREOF, I hereunto set my hand and seal.


(Notary Public)

(SEAL)





CERTIFICATE OF LIABILITY INSURANCE

6/20/2018

DATE (MM/DD/YYYY)

6/16/2017

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 Lockton Insurance Brokers, LLC CA License #OF15767 Three Embarcadero Center, Suite 600 San Francisco CA 94111 (415) 568-4000	CONTACT NAME:	
	PHONE (A/C, No., Ext.):	
INSURED 1356563 Aptean, Inc. 4325 Alexander Drive, #100 Alpharetta GA 30022	FAX (A/C, No.):	
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: National Fire Insurance Co of Hartford	NAIC # 20478
	INSURER B: The Continental Insurance Company	35289
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES CDCS007

CERTIFICATE NUMBER: 14765461

REVISION NUMBER: XXXXXXXX

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER	N	N	6020326922	6/1/2017	6/20/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	☐ AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY	N	N	6016869558	6/1/2017	6/20/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
	☐ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION \$			NOT APPLICABLE			EACH OCCURRENCE \$ XXXXXXXX AGGREGATE \$ XXXXXXXX \$ XXXXXXXX
B B	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 ☒ N	N/A	6016869530 (AOS) 6016869589 (CA)	6/20/2017 6/20/2017	6/20/2018 6/20/2018	☒ PER STATUTE ☐ OTH-ER 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 Insurance

CERTIFICATE HOLDER

14765461

NH Department of Health and Human Services
129 Pleasant Street
Brown Building
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

© 1988-2015 ACORD CORPORATION. All rights reserved.



CERTIFICATE OF LIABILITY INSURANCE

6/20/2018

DATE (MM/DD/YYYY)
6/1/2017

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.

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PRODUCER Lockton Insurance Brokers, LLC CA License #OF15767 Three Embarcadero Center, Suite 600 San Francisco CA 94111 (415) 568-4000	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE INSURER A: National Fire Insurance Co of Hartford INSURER B: The Continental Insurance Company INSURER C: INSURER D: INSURER E: INSURER F:	
INSURED Aptean, Inc. 1361135 4325 Alexander Drive, #100 Alpharetta GA 30022	NAIC # 20478 35289	

COVERAGES CDCSO07

CERTIFICATE NUMBER: 14622739

REVISION NUMBER: XXXXXXXX

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WYD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	N	N	6020326922	6/1/2017	6/20/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			NOT APPLICABLE			COMBINED SINGLE LIMIT (Ea accident) \$ XXXXXXXX BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$			NOT APPLICABLE			EACH OCCURRENCE \$ XXXXXXXX AGGREGATE \$ XXXXXXXX \$
B B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below ☒ N	N/A	N	6016869530 (AOS) 6016869589 (CA)	6/20/2017 6/20/2017	6/20/2018 6/20/2018	☒ PER STATUTE ☐ OTH-ER 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 Insurance

CERTIFICATE HOLDER

CANCELLATION

14622739

NH DHHS
129 Pleasant St.
Concord NH 013301

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



STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF THE COMMISSIONER
OFFICE OF EMERGENCY SERVICES

Jeffrey A. Meyers
Commissioner

Leigh A Cheney
Director

129 PLEASANT STREET, CONCORD, NH 03301-3857
603-271-4688 1-800-852-3345 Ext. 4688
Fax: 603-271-3001 TDD Access: 1-800-735-2964

February 27, 2017

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

REQUESTED ACTION

Authorize the Department of Health and Human Services, Office of the Commissioner, Emergency Services Unit, to enter into a **sole source** agreement with Upp Technology, Inc., Vendor #209540-P001, 1 Tower Lane, Suite 1910, Oakbrook Terrace, IL 60181, in an amount not to exceed \$90,384.71, to provide modifications to the State's Integrated Resource Management System, effective April 1, 2017 or upon the date of Governor and Council approval, whichever comes later, through September 30, 2018. 15% Federal Funds, 79% General Funds, and 6% Other Funds (Agency Income).

Funds are available in the following account(s) for SFY 2017, and are anticipated to be available in SFY 2018 and SFY 2019, upon the availability and continued appropriation of funds in the future operating budgets, with authority to adjust amounts within the price limitation and adjust encumbrances between State Fiscal Years through the Budget Office if needed and justified, without approval from Governor and Executive Council.

**05-95-90-902510-5084 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS,
HHS: DIVISION OF PUBLIC HEALTH, BUREAU OF INFECTIOUS DISEASE CONTROL, EBOLA**

Fiscal Year	Class / Account	Class Title	Job Number	Total Amount
SFY 2017	102-500731	Contracts for Prog Svc	90027030	13,950.94
			Sub Total	\$13,950.94

**05-95-95-9050010-7178 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS,
HHS: COMMISSIONER, OFFICE OF THE COMMISSIONER, HOMELAND SECURITY**

Fiscal Year	Class / Account	Class Title	Job Number	Total Amount
SFY 2017	030-500312	Equipment/Computer Software Major	95010004	5,000.00
			Sub Total	\$5,000.00

**01-03-03-030010-7695 GENERAL GOVERNMENT, DEPT OF INFORMATION TECHNOLOGY,
INFORMATION TECHNOLOGY, IT FOR DHHS**

Fiscal Year	Class / Account	Class Title	Job Number	Total Amount
SFY 2017	038/500177	Software/Lic/Maint Mainframe/Network	03950139	0.00
SFY 2018	038/509038	Technology – Software	03950139	56,919.34
SFY 2019	038/509038	Technology - Software	03950139	14,514.43
			Sub Total	\$71,433.77
			Total	\$90,384.71

EXPLANATION

This contract is requested as a **sole source** agreement because the current software in use was procured from Upp Technology under a previous agreement with Upp Technology that expired December 31, 2015. It is considered an intellectual property of a proprietary nature. While originally purchased as a commercial off the shelf system for Strategic Nation Stockpile Inventory and basic Patient Tracking, The IRMS system has been modified and customized by the Department for use as an Evacuation Tracking and Reunification System for the state's Radiological Emergency Response Plan (RERP), as a centralized Strategic National Stockpile (SNS) Inventory tracking system, and as a Functional Needs Registry (NHHelps) to provide emergency managers statewide a centralized system to track and assist their local residents with functional needs that voluntarily opt into the NHHelps System. No other vendor is capable of making modifications to the system or providing backup services for the system.

The Department of Information Technology has reviewed and approved this contract. The approval letter is attached.

In State Fiscal Year 2010 the Department of Health and Human Services, in collaboration with the Department of Safety, the Department of Information Technology and Department of Administrative Services, Bureau of Purchase and Property, procured an off the shelf software solution to meet the NH Strategic National Stockpile inventory management and patient data collection requirement. A Request For Bids, DHHS RFB 2010-116, was originally published on the State website on May 21, 2010, and Upp Technology was selected as the successful bidder. The new software system, known as the Integrated Resource Management System, was designed to integrate the required capabilities for all involved agencies. The System is currently in use by the Department of Health and Human Services, the Department of Safety, the NH National Guard and the thirteen State Public Health Regions.

Under this contract Upp Technology agrees to provide the State with Software enhancements, and support and maintenance services for the State's Integrated Resource Management System, originally purchased under DHHS RFB 2010-116, in accordance with the terms of the Contract Documents. Upp Technology shall provide software modifications (reference UPP Change Control NEWNHST0001-CC14 Patient Tracking – Patient Arm Bands) to the existing web and client based Patient Registration and web Evacuation Management modules to allow for the automated printing of barcoded, scannable Patient ID bands upon completion of the patient registration process.

This contract also contains a provision to provide continued support and maintenance for the Integrated Resource Management System. Currently, the NH Department of Information Technology does not have the necessary Database Administrator to support the Microsoft database that runs the Integrated Resource Management System. Upp Technology currently supports the Department of Information Technology in this capacity as well as with overall application support through the current agreement, which ended December 31, 2015.

The Upp Technology, Integrated Resource Management System application suite is currently in use in more than 15 state level operations, numerous large counties and large municipalities throughout the United States.

The need for a functional Strategic National Stockpile Inventory and Patient Tracking System is a requirement for the ongoing funding of the State's Public Health Emergency Preparedness grants by the Centers for Disease Control. The State's Radiological Emergency Response Plan, the Nuclear Regulatory Commission requires an evacuation plan with a family reunification system as a prerequisite to maintain power plant licensing. The Emergency Services Unit is charged with maintaining the Registration and Messaging System for use within the Reception Centers under the Radiological Emergency Response Plan.

Notwithstanding any other provision of the Contract to the contrary, no services shall be provided after June 30, 2017, and the Department shall not be liable for any payments for services provided after June 30, 2017, unless and until an appropriation for these services has been received from the state legislature and funds encumbered for the SFY 2018-2019 biennia.

Should Governor and Executive Council not authorize this Request, completion of vital components, and the ongoing support and maintenance of the Integrated Resource Management System may not occur, and the State's Public Health Emergency Preparedness funding would be in jeopardy.

As referenced in the in Exhibit C-1 of this contract, this Agreement has the option to extend for up to one (1) additional year, contingent upon satisfactory delivery of services, available funding, agreement of the parties and approval of the Governor and Council.

Testing and evaluation of the system will occur during the annually scheduled Reception Center drills conducted as part of the State's Radiological Emergency Response Plan and evaluated annually by the Federal Emergency Management Agency. Testing of the Strategic National Stockpile Inventory functionalities will occur during bi-annual exercises.

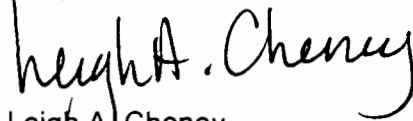
Evaluations of the maintenance and support of the Integrated Resource Management System will be done by the Department of Information Technology, who will assist the Department of Health and Human Services in assuring that all back-up and maintenance functions on the application and servers are performed as scheduled.

Area Served: Statewide.

Source of Funds: 15% Federal Funds from the Center for Disease Control and Prevention, Coordinating Office for Terrorism Preparedness and Emergency Response, Ebola grant, 6% Other Funds from the Department of Safety through assessments to the Seabrook Nuclear power plant as required by the Radiological Emergency Response Plan and NH RSA 107-B, Nuclear Planning and Response Program (Agency Income), and 79% General Funds.

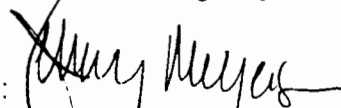
In the event that Federal and Other Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,



Leigh A. Cheney
Director Emergency Services Unit

Approved by:



Jeffrey A. Meyers
Commissioner, DHHS



STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY

27 Hazen Dr., Concord, NH 03301
Fax: 603-271-1516 TDD Access: 1-800-735-2964
www.nh.gov/doit

Denis Goulet
Commissioner

February 24, 2017

Jeffrey A. Meyers
Commissioner
Department of Health and Human Services
State of New Hampshire
129 Pleasant Street
Concord, NH 03301-3857

Dear Commissioner Meyers:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a sole source agreement with Upp Technology, Inc., as described below and referenced as DoIT No. 2017-012.

The purpose of this contract is for Upp Technology, Inc. to provide continued service and maintenance to the State's Integrated Resource Management System. Upp Technology will also provide software modifications to the existing web and client based Patient Registration and web Evacuation Management modules to allow for the automated printing of barcoded, scannable Patient ID bands.

The total funding amount is not to exceed \$90,384.71 and is effective upon the date of Governor and Council approval through September 30, 2018.

A copy of this letter should accompany the Department of Health and Human Services' submission to the Governor and Executive Council for approval.

Sincerely,

A handwritten signature in black ink, appearing to read "Denis Goulet", with a long horizontal flourish extending to the right.

Denis Goulet

DG/ik
2017-012

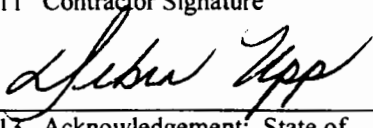
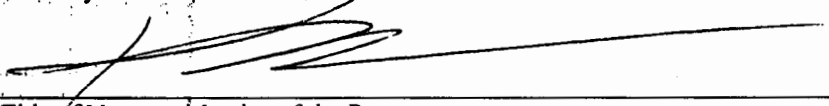
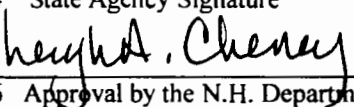
cc: Bruce Smith, IT Manager

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 NH Department of Health and Human Services Emergency Services Unit		1.2 State Agency Address 129 Pleasant Street Concord, NH 03301-3857	
1.3 Contractor Name Upp Technology, Inc.		1.4 Contractor Address 1 Tower Lane, Suite 1910 Oakbrook Terrace, IL 60181	
1.5 Contractor Phone Number 630.493.7892	1.6 Account Number 05-95-90-902510-5084-102-500731, 05-95-95-950010-7178-030-500312, 01-03-03-030010-7695-038-500177.	1.7 Completion Date 9/30/18	1.8 Price Limitation \$90,384.71
1.9 Contracting Officer for State Agency Jonathan V. Gallo, Interim Director of Contracts and Procurement		1.10 State Agency Telephone Number 603-271-9246	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Debra Upp CEO	
1.13 Acknowledgement: State of <u>ILLINOIS</u> , County of <u>DuPage</u> On <u>February 24, 2017</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]			
1.13.2 Name and Title of Notary of Justice of the Peace Kathleen Palacios			
1.14 State Agency Signature  Date: <u>2/27/17</u>		1.15 Name and Title of State Agency Signatory Leigh A. Cheney, Director	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: <u>Megan A. Lopez Attorney 3/3/17</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

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

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

4. CONDITIONAL NATURE OF AGREEMENT.

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

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

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

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

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

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

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

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

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

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

7. PERSONNEL.

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

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

Agreement. This provision shall survive termination of this Agreement.

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

8. EVENT OF DEFAULT/REMEDIES.

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

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

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

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

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

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

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

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

14. INSURANCE.

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

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

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

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

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

15. WORKERS' COMPENSATION.

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

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

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

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

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

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

19. CONSTRUCTION OF AGREEMENT AND TERMS.

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

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

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

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

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

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

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TERMS AND DEFINITIONS

The following general contracting terms and definitions apply except as specifically noted elsewhere in this document.

Acceptance	Notice from the State that a Deliverable has satisfied Acceptance Test or Review.
Acceptance Letter	An Acceptance Letter provides notice from the State that a Deliverable has satisfied Acceptance Tests or Review.
Acceptance Period	The timeframe during which the Acceptance Test is performed.
Acceptance Test Plan	The Acceptance Test Plan provided by the Vendor and agreed to by the State that describes at a minimum, the specific Acceptance process, criteria, and Schedule for Deliverables.
Acceptance Test and Review	Tests performed to determine that no Defects exist in the application Software or the System.
Access Control	Supports the management of permissions for logging onto a computer or network.
Agreement	A contract duly executed and legally binding.
Appendix	Supplementary material that is collected and appended at the back of a document.
Audit Trail Capture and Analysis	Supports the identification and monitoring of activities within an application or system.
Certification	The Vendor's written declaration with full supporting and written Documentation (including without limitation test results as applicable) that the Vendor has completed development of the Deliverable and certified its readiness for applicable Acceptance Testing or Review.
Change Order	Formal documentation prepared for a proposed change in the Specifications.
Completion Date	End date for the Contract.
Confidential Information	Information required to be kept Confidential from unauthorized disclosure <i>under the Contract</i> .
Contract	This Agreement between the State of New Hampshire and a Vendor, which creates binding obligations for each party to perform as specified in the Contract Documents.
Contract Agreement	The documentation consisting of both the P-37 Agreement, Contract Agreement - IT Provisions, and the Exhibits which represents the understanding and acceptance of the reciprocal legal rights and duties of the parties with respect to the Scope of Work.
Contract Conclusion	Refers to the conclusion of the Contract, for any reason, including but not limited to, the successful Contract completion, termination for convenience, or termination for default.
Contract Documents	Documents that comprise this Contract (See General Provisions Agreement, Paragraph 24 and Part 2, Information Technology Provisions, Section 1.1).
Contract Managers	The persons identified by the State and the Vendor who shall be responsible for all contractual authorization and administration of the Contract. These responsibilities shall include but not be limited to processing Contract Documentation, obtaining executive approvals, tracking costs and payments, and representing the parties in all Contract administrative activities. (See Section 4: <i>Contract Management</i>).

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Contract Price	The total, not to exceed amount to be paid by the State to the Vendor for product and services described in the Contract Agreement. This amount is listed in the General Provisions Section 1.8 as well as Exhibit B, Section 1, <i>Payment Schedule</i> .
Contractor	The Vendor who is responsible for the Services and Deliverables of the Contract.
Contracted Vendor/Vendor	The Vendor whose proposal or quote was awarded the Contract with the State and who is responsible for the Services and Deliverables of the Contract.
Conversion Test	A test to ensure that a Data conversion process correctly takes Data from a legacy system and successfully converts it to a form that can be used by the new System.
COTS	Commercial Off-The-Shelf Software.
Cure Period	The thirty (30) day period following written notification of a default within which a Contracted Vendor must cure the default identified.
Custom Code	Code developed by the Vendor specifically for this engagement for the State of New Hampshire.
Custom Software	Software developed by the Vendor specifically for this engagement for the State of New Hampshire.
Data	State's records, files, forms, Data and other documents or information, in either electronic or paper form, that will be used /converted by the Vendor during the Contract Term.
Data Breach	The unauthorized access by a non-authorized person(s) that results in the use, disclosure or theft of the State's unencrypted non-public data.
DBA	Database Administrator.
Deficiencies	A deficiency, failure or defect in a Deliverable resulting in a Deliverable, the Software, or the System, not conforming to its Specifications. Class A Deficiency – <i>Software</i> - Critical, does not allow System to operate, no work around, demands immediate action; <i>Written Documentation</i> - missing significant portions of information or unintelligible to State; <i>Non Software</i> - Services were inadequate and require re-performance of the Service. Class B Deficiency – <i>Software</i> - Important, does not stop operation and/or there is a work around and user can perform tasks; <i>Written Documentation</i> - portions of information are missing but not enough to make the document unintelligible; <i>Non Software</i> - Services were deficient, require reworking, but do not require re-performance of the Service. Class C Deficiency – <i>Software</i> - minimal, cosmetic in nature, minimal effect on System, low priority and/or user can use System; <i>Written Documentation</i> - minimal changes required and of minor editing nature; <i>Non Software</i> - Services require only minor reworking and do not require re-performance of the Service.
Deliverable	A Deliverable is any Written, Software, or Non-Software Deliverable (letter, report, manual, book, other), provided by the Vendor to the State or under the terms of a Contract requirement.
Department	An agency of the State.
Department of Information Technology (DoIT)	The Department of Information Technology established under RSA 21-R by the Legislature effective September 5, 2008.
Documentation	All information that describes the installation, operation, and use of the Software, either in printed or electronic format.

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Digital Signature	Guarantees the unaltered state of a file.
Effective Date	The Contract and all obligations of the parties hereunder shall become effective on the date the Governor and the Executive Council of the State of New Hampshire approves the Contract, including any retroactive date established under this Contract.
Encryption	Supports the transformation of data for security purposes.
Enhancements	Updates, additions, modifications to, and new releases for the Software, and all changes to the Documentation as a result of Enhancements, including, but not limited to, Enhancements produced by Change Orders .
Error Report	Vendor supplied error tracking application. (JIRA application at the time of contract signing).
Firm Fixed Price Contract	A Firm-Fixed-Price Contract provides a price that is not subject to increase, i.e., adjustment on the basis of the Vendor's cost experience in performing the Contract.
Governor and Executive Council	The New Hampshire Governor and Executive Council.
Harvest	Software to archive and/or control versions of software.
JIRA	Error tracking application used by Contractor at time of contract signing
Identification and Authentication	Supports obtaining information about those parties attempting to log on to a system or application for security purposes and the validation of those users.
Implementation	The process for making the System fully operational for processing the Data.
Implementation Plan	Sets forth the transition from development of the System to full operation, and includes without limitation, training, business and technical procedures.
Information Technology (IT)	Refers to the tools and processes used for the gathering, storing, manipulating, transmitting, sharing, and sensing of information including, but not limited to, Data processing, computing, information systems, telecommunications, and various audio and video technologies.
Input Validation	Ensure that the values entered by users or provided by other applications meets the size, type and format expected. Protecting the application from cross site scripting, SQL injection, buffer overflow, etc.
Intrusion Detection	Supports the detection of illegal entrance into a computer system.
Invoking Party	In a dispute, the party believing itself aggrieved.
Key Project Staff	Personnel identified by the State and by the Vendor as essential to work on the Project or engagement.
Licensee	The State of New Hampshire.
Non Exclusive Contract	A contract executed by the State that does not restrict the State from seeking alternative sources for the Deliverables or Services provided under the Contract.
Non-Software Deliverables	Deliverables that are not Software Deliverables or Written Deliverables, e.g., meetings, help support, services, other.

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Normal Business Hours	Normal Business Hours – 8:00 a.m. to 5:00 p.m. EST, Monday through Friday excluding State of New Hampshire holidays. State holidays are: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, July 4 th , Labor Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving Day, and Christmas Day. Specific dates will be provided. Class A Deficiencies are subject to Vendor coverage 7 days a week, 24 hours a day, 365 days each year.
Notice to Proceed (NTP)	The State Contract Manager's written direction to the Vendor to begin work on the Contract on a given date and time
Open Data Formats	A data format based on an underlying Open Standard.
Open Source Software	Software that guarantees the user unrestricted use of the Software as defined in RSA 21-R:10 and RSA 21-R:11.
Open Standards	Specifications for the encoding and transfer of computer data that is defined in RSA 21-R:10 and RSA 21-R:13.
Operational	Operational means that the System is operating and fully functional, all Data has been loaded; the System is available for use by the State in its daily operations, and the State has issued an Acceptance Letter.
Order of Precedence	The order in which Contract/Documents control in the event of a conflict or ambiguity. A term or condition in a document controls over a conflicting or ambiguous term or condition in a document that is lower in the Order of Precedence.
Performance Standards	Performance Standards are management-approved expressions of the performance threshold(s), requirement(s), or expectation(s) that must be met to be appraised at a particular level of performance.
Project	The planned undertaking regarding the entire subject matter of a Contract engagement and the activities of the parties related hereto.
Project Team	The group of State employees and Contracted Vendor's personnel responsible for managing the processes and mechanisms required such that the Services are procured in accordance with the Contract on time, on budget and to the required specifications and quality.
Project Management Plan	A document that describes the processes and methodology to be employed by the Vendor to ensure a successful Project.
Project Managers	The persons identified who shall function as the State's and the Vendor's representative with regard to Review and Acceptance of Contract Deliverables, invoice sign off, and review and approval of Change Requests (CR) utilizing the Change Control Procedures (CCP).
Project Staff	State personnel assigned to work with the Vendor on the Project or engagement.
Proposal	The submission from a Vendor in response to the Request for a Proposal or Statement of Work.
Regression Test Plan	A plan integrated into the Work Plan used to ascertain whether fixes to Defects have caused errors elsewhere in the application/process.
Review	The process of reviewing Deliverables for Acceptance.
Review Period	The period set for review of a Deliverable. If none is specified then the Review Period is five (5) business days.
Role/Privilege Management	Supports the granting of abilities to users or groups of users of a computer, application or network.

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Schedule	The dates described in the Contract for performance of Services and other Project or engagement events and activities under the Contract.
Services	The work or labor to be performed by the Vendor on the Project or engagement as described in the Contract.
Software	All custom Software and COTS Software provided by the Vendor under the Contract.
Software Deliverables	The COTS Software provided under this Contract and any Enhancements.
Software License	Licenses provided to the State under this Contract.
Solution	The Solution consists of the total Solution, which includes, without limitation, Software and Services, addressing the requirements and terms of the Specifications. The off-the-shelf Software and configured Software customized for the State provided by the Vendor.
Specifications	The written Specifications that set forth the requirements which include, without limitation, the Proposal, the Contract, any Performance Standards, Documentation, applicable State and federal policies, laws and regulations, State technical standards, subsequent State-approved Deliverables, and other Specifications and requirements described in the Contract Documents. The Specifications are, by this reference, made a part of the Contract as though completely set forth herein.
State	Defined as: State of New Hampshire Department of Health and Human Services 129 Pleasant Street Concord, NH 03301 Reference to the term "State" shall include applicable agencies.
Statement of Work (SOW)	A Statement of Work clearly defines the basic requirements and objectives of a Project or engagement. The Statement of Work also defines a high level view of the architecture, performance and design requirements, the roles and responsibilities of the State and the Vendor, as applicable. The Contract Agreement SOW defines the results that the Vendor remains responsible and accountable for achieving.
State's Confidential Records	State's information regardless of its form that is not subject to public disclosure under applicable state and federal laws and regulations, including but not limited to <u>RSA Chapter 91-A</u> .
State Data	Any information contained within State systems in electronic or paper format.
State Fiscal Year (SFY)	The New Hampshire State Fiscal Year extends from July 1 st through June 30 th of the following calendar year.
State's Project Manager (PM)	State's representative with regard to Project management and technical matters. Agency Project Managers are responsible for review and Acceptance of specific Contract Deliverables, invoice sign off, and Review and approval of a Change Proposal (CP).

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Subcontractor	A person, partnership, or company not in the employment of, or owned by, the Vendor, which is performing Services under this Contract under a separate Contract with or on behalf of the Vendor.
System	All Software, specified hardware, and interfaces and extensions, integrated and functioning together in accordance with the Specifications.
Technical Authorization	Direction to a Vendor, which fills in details, clarifies, interprets, or specifies technical requirements. It must be: (1) consistent with Statement of Work within statement of Services; (2) not constitute a new assignment; and (3) not change the terms, documents of specifications of the Contract Agreement.
Test Plan	A plan, integrated in the Work Plan or Schedule, to verify the code (new or changed) works to fulfill the requirements of the Project. It may consist of a timeline, a series of tests and test data, test scripts and reports for the test results as well as a tracking mechanism.
Term	Period of the Contract from the Effective Date through termination.
Transition Services	Services and support provided when the Vendor is supporting System conversion changes.
UAT	User Acceptance Test
Unit Test	Developers create their own test data and test scenarios to verify the code they have created or changed functions properly as defined.
User Acceptance Testing	Tests done by knowledgeable business users who are familiar with the scope of the Project. They create/develop test cases to confirm the System was developed according to specific user requirements. The test cases and scripts/scenarios should be mapped to business requirements outlined in the user requirements documents.
User Management	Supports the administration of computer, application and network accounts within an organization.
Vendor/ Contracted Vendor	The Vendor whose proposal or quote was awarded the Contract with the State and who is responsible for the Services and Deliverables of the Contract.
Verification	Supports the confirmation of authority to enter a computer system, application or network.
Walk Through	A step-by-step review of a Specification, usability features or design before it is handed off to the technical team for development.
Warranty Period	A period of coverage during which the Vendor is responsible for providing a guarantee for products and Services delivered as defined in the Contract.
Withhold	Contract Price monies withheld from Vendor payment and subject to the Vendor's meeting successful and satisfactory Performance Standards which trigger release of Contract Price funds for payment.
Work Hours	Vendor personnel shall work normal business hours between 8:00 a.m. and 5:00 p.m., eight (8) hour days, forty (40) hour weeks, excluding State of New Hampshire holidays, except Class A Deficiencies are subject to Vendor coverage 7 days a week, 24 hours a day/ 365 days a year in accordance with Contract Document

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Work Plan	The overall plan of activities for the Project or engagement created in accordance with the Contract. The plan and delineation of tasks, activities and events to be performed and Deliverables to be produced under the Project as specified in Appendix C. The Work Plan shall include a detailed description of the Schedule, tasks/activities, Deliverables, critical events, task dependencies, and the resources that would lead and/or participate on each task.
Written Deliverables	Non-Software written deliverable Documentation (letter, report, manual, book, other) provided by the Vendor either in paper or electronic format.

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INTRODUCTION

This Contract is by and between the State of New Hampshire, acting through New Hampshire Department of Health and Human Services (“State”), and UPP TECHNOLOGY, INC., an Illinois Corporation, (“UPP TECHNOLOGY”), having its principal place of business at 1 Tower Lane, Suite 1910, Oakbrook Terrace, IL 60181.

UPP TECHNOLOGY shall provide the State with enhancements, support and maintenance services for the Integrated Resource Management System (“IRMS”) originally purchased under DHHS RFB 2010-116, and in accordance with the Contract Documents.

Table 1. Deliverables Schedule

Reference Number	Activity, Deliverable, or Milestone	Deliverable Type	Projected Delivery Date
1	Application Enhancement – ID Printing	Software	Within 60 days of the contract effective date
	Support & Maintenance:		
2	Installation of IRMS Go-Kit Laptop Upgrades to Current Environment, v 2.7.0.1525 or later	Software	Within 60 days of the contract effective date
3	Installation of IRMS Web-Based Patient Tracking to IRMS Go-Kit Servers	Software	Within 60 days of the contract effective date
4	Installation of IRMS Web-Based Evacuation Management to Go-Kit Servers	Software	Within 60 days of the contract effective date
5	Synchronization of Go-Kit Servers with IRMS Central Server (via network)	Software	Within 60 days of the contract effective date
6	Completion of v 2.7 or later Patient Management for Handheld Devices (questionnaire and dispensing modules)	Software	Within 60 days of the contract effective date
7	Quarterly Software and Go-Kit Server (15) Updates (Years 1, 2 and 3) – Production and Test	Software	Within 60 days of the contract effective date
8	Support and Maintenance (IRMS) – Year 1, including outstanding support issues from prior contract	Non-Software	7/1/2016-6/30/2017
9	Support and Maintenance (IRMS) – Year 2	Non-Software	7/1/2017-6/30/2018
10	Support and Maintenance (IRMS) – Year 3	Non-Software	7/1/18-9/30/18

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RECITALS

The State desires to have UPP TECHNOLOGY provide support and maintenance services, including technical support, enhancements, and associated Services for its Integrated Resources Management System (IRMS) for the State as described in Contract Part 2 – Information Technology Provisions, Introduction, Table 1 - Deliverables Schedule, and Contract Documents; and UPP TECHNOLOGY wishes to provide the IRMS for the State, including provision of enhancements and support and maintenance Services as described in Contract Part 2 – Information Technology Provisions, Introduction, Table 1 - *Deliverables Schedule*, and Contract Documents.

The parties therefore agree as follows:

1. CONTRACT DOCUMENTS

1.1 Contract Documents

This Contract Agreement (2017-012 DHHS IRMS) is comprised of the following documents:

Part 1 - Form P-37 Agreement General Provision
Part 2 - Information Technology Provisions
Part 3 - Exhibits
Exhibit A - Statement of Work
Exhibit B - Price and Payment Schedule
Exhibit C - Special Provisions
Exhibit D- Administrative Services
Exhibit E- Warranties
Exhibit F – Contractor Quote/Proposal, By Reference
Exhibit G –Maintenance and Support Services
Exhibit H - Requirements
Exhibit I – Special Exhibits, Certificates and Attachments

1.2 Order of Precedence

In the event of conflict or ambiguity among any of the text of the Contract Documents, the following Order of Precedence shall govern:

- a. State of New Hampshire, Department of Health and Human Services, Contract Agreement 2017-012 DHHS IRMS, Contract Part 1 - P37 Agreement, General Provisions.
- b. State of New Hampshire, Department of Health and Human Services, Contract Agreement 2017-012 DHHS IRMS, Contract Part 2 – Information Technology Provisions and Part 3 - Exhibits.
- c. Attachment 1 – IRMS Change Control Form.
- d. Attachment 2 – Upp Technology's Proposal/Quote dated 3/25/16 and amended Proposal/Quote dated 9/1/16.
- e. Attachment 3 – Upp Technology's Software License, Maintenance and Support Agreement.

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2. CONTRACT TERM

The Contract and all obligations of the parties hereunder shall become effective after full execution by the parties, and the receipt of required governmental approvals, including, but not limited to, Governor and Executive Council of the State of New Hampshire approval (“Effective Date”), including any retroactive date established under this Contract.

The Contract shall begin effective upon the date of Governor and Council approval through September 30, 2018. The Term may be extended up to one (1) year, (“Extended Term”) at the sole option of the State, contingent and subject to satisfactory delivery of services, available funding, the parties’ prior written agreement on applicable fees for each extended term, and approval by the Governor and Executive Council.

UPP TECHNOLOGY shall commence work upon issuance of a Notice to Proceed by the State.

The State does not require UPP TECHNOLOGY to commence work prior to the Effective Date; however, if UPP TECHNOLOGY commences work prior to the Effective Date and a Notice to Proceed, such work shall be performed at the sole risk of UPP TECHNOLOGY. In the event that the Contract does not become effective, the State shall be under no obligation to pay UPP TECHNOLOGY for any costs incurred or Services performed.

Time is of the essence in the performance of UPP TECHNOLOGY’s obligation under the Contract.

3. COMPENSATION

3.1 Contract Price

The Contract Price is identified in Contract Part 1 - P37 Agreement, General Provisions, block 1.8 *Price Limitation*. Method of payment and terms of payment are identified and more particularly described in Contract Part 1 - P37 Agreement, General Provisions, Section 5 *Contract Price/Price Limitation Payment*, and Contract Part 3, - Exhibit B, Section 1, *Price and Payment Schedule*.

3.2 Non-Exclusive Contract

The State reserves the right, at its discretion, to retain other vendors to provide any of the Services or Deliverables identified under this procurement or make an award by item, part or portion of an item, group of items, or total Proposal. UPP TECHNOLOGY shall not be responsible for any delay, act, or omission of such other vendors, except that UPP TECHNOLOGY shall be responsible for any delay, act, or omission of the other vendors if such delay, act, or omission is caused by or due to the fault of UPP TECHNOLOGY.

4. CONTRACT MANAGEMENT

The Project or engagement will require the coordinated efforts of a Project Team consisting of both UPP TECHNOLOGY and State personnel. UPP TECHNOLOGY shall provide all necessary resources to perform its obligations under the Contract. UPP TECHNOLOGY shall be responsible for managing the Contract and meeting all obligations under the terms of the Contract.

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4.1 Vendor's Contract Manager

UPP TECHNOLOGY shall assign a Contract Manager who shall be responsible for all Contract authorization and administration. UPP TECHNOLOGY's Contract Manager is:

James Lavery, JD/MBA
Vice President
1 Tower Lane, Suite 1910
Oakbrook Terrace, IL 60181
Tel: 630.493-7861
Email: jlavery@upp.com

4.2 Vendor's Project Manager

4.2.1 UPP TECHNOLOGY shall assign and maintain a Project Manager who meets the requirements of the Contract. UPP TECHNOLOGY's selection of the Contracted Vendor Project Manager shall be subject to the prior written approval of the State. The State's approval process may include, without limitation, at the State's discretion, review of the proposed UPP TECHNOLOGY Project Manager's resume, qualifications, references, and background checks, and an interview. The State may require removal or reassignment of UPP TECHNOLOGY's Project Manager who, in the sole judgment of the State, is found unacceptable or is not performing to the State's satisfaction.

4.2.2 UPP TECHNOLOGY Project Manager must be qualified to perform the obligations required of the position under the Contract, shall have full authority to make binding decisions under the Contract, and shall function as UPP TECHNOLOGY's representative for all administrative and management matters. UPP TECHNOLOGY's Project Manager shall perform the duties required under the Contract. UPP TECHNOLOGY's Project Manager must be available to promptly respond during Normal Business Hours to inquiries from the State in accordance with timeframes set forth in Contract Part 3 - Exhibit G *Maintenance and Support Services*, Section 2.4, and be at the site as needed, and Terms and Definitions (see Normal Business Hours). UPP TECHNOLOGY's Project Manager must work diligently and use his/ her best efforts to support the Contract.

4.2.3 UPP TECHNOLOGY shall not change its assignment of UPP TECHNOLOGY Project Manager without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of UPP TECHNOLOGY's Project Manager shall not be unreasonably withheld. The replacement Project Manager shall have comparable or greater skills than UPP TECHNOLOGY Project Manager being replaced; meet the requirements of the Contract; and be subject to reference and background checks described above in Contract Part 2 -Information Technology Provision in Section 4.2.: *Vendor's Project Manager*, and in Section 4.6: *Reference and Background Checks*.. UPP TECHNOLOGY shall assign a replacement UPP TECHNOLOGY Project Manager within ten (10) business days of the departure of the prior UPP TECHNOLOGY Project Manager, and UPP TECHNOLOGY shall continue during the ten (10) business day period to provide

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competent Project management Services through the assignment of a qualified interim UPP TECHNOLOGY Project Manager.

4.2.4 Notwithstanding any other provision of the Contract, the State shall have the option, at its discretion, to terminate the Contract, declare UPP TECHNOLOGY in default and pursue its remedies at law and in equity, if UPP TECHNOLOGY fails to assign a UPP TECHNOLOGY Project Manager meeting the requirements and terms of the Contract.

4.2.5 Vendor's Project Manager is:

Jason Shattuck
Program Director
1 Tower Lane, Suite 1910
Oakbrook Terrace, IL 60181
Tel: 256.527.7688
Email: jshattuck@upp.com

4.3 Vendor Key Project Staff

4.3.1 UPP TECHNOLOGY shall assign Key Project Staff who meet the requirements of the Contract. The State may conduct reference and background checks on UPP TECHNOLOGY Key Project Staff. The State reserves the right to require removal or reassignment of UPP TECHNOLOGY's Key Project Staff who are found unacceptable to the State.

4.3.2 UPP TECHNOLOGY shall not change any UPP TECHNOLOGY Key Project Staff commitments without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of UPP TECHNOLOGY Key Project Staff will not be unreasonably withheld. The replacement UPP TECHNOLOGY Key Project Staff shall have comparable or greater skills than UPP TECHNOLOGY Key Project Staff being replaced; meet the requirements of the Contract.

4.3.3 Notwithstanding any other provision of the Contract to the contrary, the State shall have the option to terminate the Contract, declare UPP TECHNOLOGY in default and to pursue its remedies at law and in equity, if UPP TECHNOLOGY fails to assign Key Project Staff meeting the requirements and terms of the Contract or if it is dissatisfied with UPP TECHNOLOGY's replacement Project staff.

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4.4 State Contract Manager

The State shall assign a Contract Manager who shall function as the State's representative with regard to Contract administration. The State Contract Manager is:

Bobbie Aversa
Contracts and Procurement Administrator
Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301
Tel: 603.271.9563
Fax: 603.271.8431
Email: bobbie.aversa@dhhs.nh.gov

4.5 State Project Manager

The State shall assign a Project Manager. The State Project Manager's duties shall include the following:

- a. Leading the Contract Project or engagement;
- b. Engaging and managing all vendors working on the Project or engagement;
- c. Managing significant issues and risks;
- d. Reviewing and accepting Contract Deliverables;
- e. Invoice sign-offs;
- f. Review and approval of change proposals;
- g. Managing stakeholders' concerns.

The State Project Manager is:

Brett Scholbe
IRMS Program Manager
Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301
Tel: 603.271.9516
Fax: 603.271.3001
Email: brett.scholbe@dhhs.nh.gov

4.6 Reference and Background Checks

The State may, at its sole expense, conduct reference and background screening of the Contracted Vendor Project Manager and UPP TECHNOLOGY Key Project Staff. The State shall maintain the confidentiality of background screening results in accordance with the Contract Part 1 – P37 Agreement, General Provisions, Section 9: *Data/Access/Confidentiality/Preservation*.

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5. DELIVERABLES

5.1 Vendor Responsibilities

UPP TECHNOLOGY shall be solely responsible for meeting all requirements, and terms and conditions specified in this Contract, regardless of whether or not a Subcontractor is used.

UPP TECHNOLOGY may subcontract Services subject to the provisions of the Contract, including but not limited to, the terms and conditions in the Contract Agreement. UPP TECHNOLOGY must submit all information and documentation relating to the Subcontractor including terms and conditions consistent with this Contract. The State will consider UPP TECHNOLOGY to be wholly responsible for the performance of the Contract its remedies at law and in equity and the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

5.2 Deliverables and Services

UPP TECHNOLOGY shall provide the State with the Deliverables and Services in accordance with Contract Part 3 - Exhibit A: *Statement of Work*. Upon its submission of a Deliverable or Service, the Contracted Vendor represents that it has performed its obligations under the Contract associated with the Deliverable or Services.

5.3 Non-Software and Written Deliverables Review and Acceptance

After receiving written Certification from UPP TECHNOLOGY that a Non-Software or Written Deliverable is final, complete, and ready for Review, the State will Review the Deliverable to determine whether it meets the Requirements outlined in Contract Part 3 - Exhibit A: *Statement of Work*. The State will notify UPP TECHNOLOGY in writing of its Acceptance or rejection of the Deliverable within five (5) business days of the State's receipt of UPP TECHNOLOGY's written Certification. If the State rejects the Deliverable, the State shall notify UPP TECHNOLOGY of the nature and class of the Deficiency and UPP TECHNOLOGY shall correct the Deficiency within the period identified in the Work Plan. If no period for UPP TECHNOLOGY's correction of the Deliverable is identified, UPP TECHNOLOGY shall correct the Deficiency in the Deliverable within five (5) business days. Upon receipt of the corrected Deliverable, the State shall have five (5) business days to review the Deliverable and notify UPP TECHNOLOGY of its Acceptance or rejection thereof, with the option to extend the Review Period up to five (5) additional business days. If UPP TECHNOLOGY fails to correct the Deficiency within the allotted period of time, the State may, at its option, continue reviewing the Deliverable and require UPP TECHNOLOGY to continue until the Deficiency is corrected, or immediately terminate the Contract, declare UPP TECHNOLOGY in default, and pursue

5.4 Software and Deliverables Review and Acceptance

Software Testing and Acceptance shall be performed as set forth in the in Contract Part 3 - Exhibit H: *Requirements*.

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6. SOFTWARE

No software is being procured under this Contract.

7. SERVICES

UPP TECHNOLOGY shall provide the Services required under the Contract Documents. All Services shall meet, and be performed, in accordance with the Specifications.

7.1 Administrative Services

UPP TECHNOLOGY shall provide the State with the administrative Services set forth in the Contract, and particularly described in Contract Part 3 - Exhibit D: *Administrative Services*.

7.2 Implementation Services

Not applicable to this Contract.

7.3 Testing Services

UPP TECHNOLOGY shall perform testing Services for the State set forth in the Contract, and particularly described in Contract Part 3 - Exhibit H: *Requirements*.

7.4 Training Services

Not applicable to this Contract.

7.5 Support and Maintenance Services

UPP TECHNOLOGY shall provide the State with support and maintenance Services for the Software set forth in the Contract, and particularly described in Contract Part 3 - Exhibit G: *Maintenance and Support Services*.

7.6 Warranty Services

UPP TECHNOLOGY shall provide the State with warranty Services set forth in the Contract, and particularly described in Contract Part 3 - Exhibit E: *Warranties*.

8. CHANGE ORDERS

The State may make changes or revisions at any time by written Change Order. The State originated changes or revisions shall be approved by the Department of Information Technology. Within five (5) business days of UPP TECHNOLOGY's receipt of a Change Order, UPP TECHNOLOGY shall advise the State, in detail, of any impact on cost (e.g., increase or decrease), the Schedule, or the Work Plan.

UPP TECHNOLOGY may request a change within the scope of the Contract by written Change Order, identifying any impact on cost, the Schedule, or the Work Plan. The State shall attempt to respond to UPP TECHNOLOGY's requested Change Order within five (5) business days. The State Agency, as well as the Department of Information Technology, must approve all Change Orders in

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writing. The State shall be deemed to have rejected the Change Order if the parties are unable to reach an agreement in writing.

All Change Order requests from UPP TECHNOLOGY to the State, and the State acceptance of UPP TECHNOLOGY's estimate for a State requested change, will be acknowledged and responded to, either acceptance or rejection, in writing. If accepted, the Change Order(s) shall be subject to the Contract amendment process, as determined to apply by the State.

9. INTELLECTUAL PROPERTY

9.1 Software Title

Title, right, and interest (including all ownership and intellectual property rights) in the Software, and its associated Documentation, shall remain with UPP TECHNOLOGY.

9.2 State's Data and Property

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

9.3 Vendor's Materials

In accordance with the provision of this Contract, UPP TECHNOLOGY shall not distribute any products containing or disclose any State Confidential Information. UPP TECHNOLOGY shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques that are acquired or used in the course of its performance under this Contract, provided that such is not obtained as the result of the deliberate memorization of the State Confidential Information by UPP TECHNOLOGY employees or third party consultants engaged by UPP TECHNOLOGY.

Without limiting the foregoing, the parties agree that the general knowledge referred to herein cannot include information or records not subject to public disclosure under New Hampshire RSA Chapter 91-A, which includes but is not limited to the following: records of grand juries and petit juries; records of parole and pardon boards; personal school records of pupils; records pertaining to internal personnel practices, financial information, test questions, scoring keys and other examination data use to administer a licensing examination, examination for employment, or academic examination and personnel, medical, welfare, library use, video tape sale or rental, and other files containing personally identifiable information that is private in nature.

9.4 State Website Copyright / WWW Copyright and Intellectual Property Rights

All right, title and interest in the State WWW site, including copyright to all Data and information, shall remain with the State. The State shall also retain all right, title and interest in any user interfaces and computer instructions embedded within the WWW pages. All

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WWW pages and any other Data or information shall, where applicable, display the State's copyright.

9.5 Survival

This Contract Part 2 – Information Technology Provisions, Section 9: *Intellectual Property*, shall survive the termination of the Contract.

10. USE OF STATE'S INFORMATION, CONFIDENTIALITY

10.1 Use of State's Information

In performing its obligations under the Contract, UPP TECHNOLOGY may gain access to information of the State, including State Confidential Information. "State Confidential Information" shall include, but not be limited to, information exempted from public disclosure under New Hampshire RSA Chapter 91-A: Access to Public Records and Meetings (see e.g. RSA Chapter 91-A: 5 Exemptions). UPP TECHNOLOGY shall not use the State Confidential Information developed or obtained during the performance of, or acquired, or developed by reason of the Contract, except as directly connected to and necessary for UPP TECHNOLOGY's performance under the Contract.

10.2 State Confidential Information

UPP TECHNOLOGY shall maintain the confidentiality of and protect from unauthorized use, disclosure, publication, and reproduction (collectively "release"), all State Confidential Information that becomes available to UPP TECHNOLOGY in connection with its performance under the Contract, regardless of its form. Subject to applicable federal or State laws and regulations, Confidential Information shall not include information which: (i) shall have otherwise become publicly available other than as a result of disclosure by the receiving party in breach hereof; (ii) was disclosed to the receiving party on a non-confidential basis from a source other than the disclosing party, which the receiving party believes is not prohibited from disclosing such information as a result of an obligation in favor of the disclosing party; (iii) is developed by the receiving party independently of, or was known by the receiving party prior to, any disclosure of such information made by the disclosing party; or (iv) is disclosed with the written consent of the disclosing party. A receiving party also may disclose Confidential Information to the extent required by an order of a court of competent jurisdiction.

Any disclosure of the State Confidential Information shall require the prior written approval of the State. UPP TECHNOLOGY shall immediately notify the State if any request, subpoena or other legal process is served upon UPP TECHNOLOGY regarding the State Confidential Information, and UPP TECHNOLOGY shall cooperate with the State in any effort the State undertakes to contest the request, subpoena or other legal process, at no additional cost to the State.

In the event of the unauthorized release of State Confidential Information, UPP TECHNOLOGY shall immediately notify the State, and the State may immediately be

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entitled to pursue any remedy at law and in equity, including, but not limited to, injunctive relief.

10.3 Vendor Confidential Information

Insofar as UPP TECHNOLOGY seeks to maintain the confidentiality of its confidential or proprietary information, UPP TECHNOLOGY must clearly identify in writing all information it claims to be confidential or proprietary. Notwithstanding the foregoing, the State acknowledges that UPP TECHNOLOGY considers the Software and Documentation to be Confidential Information. UPP TECHNOLOGY acknowledges that the State is subject to State and federal laws governing disclosure of information including, but not limited to, RSA Chapter 91-A. The State shall maintain the confidentiality of the identified Confidential Information insofar as it is consistent with applicable State and federal laws or regulations, including but not limited to, RSA Chapter 91-A. In the event the State receives a request for the information identified by UPP TECHNOLOGY as confidential, the State shall notify UPP TECHNOLOGY and specify the date the State will be releasing the requested information. At the request of the State, UPP TECHNOLOGY shall cooperate and assist the State with the collection and review of UPP TECHNOLOGY's information, at no additional expense to the State. Any effort to prohibit or enjoin the release of the information shall be UPP TECHNOLOGY's sole responsibility and at UPP TECHNOLOGY's sole expense. If UPP TECHNOLOGY fails to obtain a court order enjoining the disclosure, the State shall release the information on the date specified in the State's notice to UPP TECHNOLOGY, without any liability to UPP TECHNOLOGY.

10.4 Survival

This Contract Part 2 - Section 10, *Use of State's Information, Confidentiality*, shall survive termination or conclusion of the Contract.

11. LIMITATION OF LIABILITY

11.1 State

Subject to applicable laws and regulations, in no event shall the State be liable for any consequential, special, indirect, incidental, punitive, or exemplary damages. Subject to applicable laws and regulations, the State's liability to UPP TECHNOLOGY shall not exceed the total Contract Price set forth in Contract Part 1 - P37 Agreement, General Provisions, block 1.8 *Price Limitation*.

11.2 Vendor

Subject to applicable laws and regulations, in no event shall UPP TECHNOLOGY be liable for any consequential, special, indirect, incidental, punitive or exemplary damages and UPP TECHNOLOGY's liability to the State shall not exceed two times (2X) the total Contract Price set forth in Contract Part 1 - P37 Agreement, General Provision, block 1.8 *Price Limitation*.

Notwithstanding the foregoing, this limitation of liability shall not apply to UPP TECHNOLOGY's indemnification obligations set forth in the Contract Part 1 - P37

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Agreement, General Provisions, Section 13: *Indemnification*, and in this Contract Part 2 – Information Technology Provisions, Section 10: *Use of State's Information, Confidentiality*, which shall be unlimited.

11.3 State's Immunity

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 shall survive termination or Contract conclusion.

11.4 Survival

This Contract Part 2 – Information Technology Provisions, Section 11: *Limitation of Liability* shall survive termination or Contract conclusion.

12. TERMINATION

This Contract Part 2 – Information Technology Provisions, Section 12 *Termination*, shall survive the termination or Contract Conclusion.

12.1 Termination for Default

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

- a. Failure to perform the Services satisfactorily or on schedule;
- b. Failure to submit any report required; and/or
- c. Failure to perform any other covenant, term or condition of the Contract.

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

- a. Unless otherwise provided in the Contract, the State shall provide UPP TECHNOLOGY written notice of default and require it to be remedied within, in the absence of a greater or lesser specification of time, within thirty (30) days from the date of notice, unless otherwise indicated within by the State ("Cure Period"). If UPP TECHNOLOGY fails to cure the default within the Cure Period, the State may terminate the Contract effective two (2) days after giving UPP TECHNOLOGY notice of termination, at its sole discretion, treat the Contract as breached and pursue its remedies at law or in equity or both.
- b. Give UPP TECHNOLOGY a written notice specifying the Event of Default and suspending all payments to be made under the Contract and ordering that the portion of the Contract Price which would otherwise accrue to UPP TECHNOLOGY during the period from the date of such notice until such time

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as the State determines that UPP TECHNOLOGY has cured the Event of Default shall never be paid to UPP TECHNOLOGY.

- c. Set off against any other obligations the State may owe to the Vendor any damages the State suffers by reason of any Event of Default;
- d. Treat the Contract as breached and pursue any of its remedies at law or in equity, or both.
- e. Procure Services that are the subject of the Contract from another source and UPP TECHNOLOGY shall be liable for reimbursing the State for the replacement Services, and all administrative costs directly related to the replacement of the Contract and procuring the Services from another source, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, and staff time costs; all of which shall be subject to the limitations of liability set forth in the Contract.

12.1.2 The Contractor shall provide the State with written notice of default, and the State shall cure the default within thirty (30) days.

12.2 Termination for Convenience

12.2.1 The State may, at its sole discretion, terminate the Contract for convenience, in whole or in part, by thirty (30) days written notice to UPP TECHNOLOGY. In the event of a termination for convenience, the State shall pay UPP TECHNOLOGY the agreed upon price, if separately stated in this Contract, for Deliverables for which Acceptance has been given by the State. Amounts for Services or Deliverables provided prior to the date of termination for which no separate price is stated under the Contract shall be paid, in whole or in part, generally in accordance with Contract Part 3 - Exhibit B, *Price and Payment Schedule*, of the Contract.

13.2.2 During the thirty (30) day period, UPP TECHNOLOGY shall wind down and cease Services as quickly and efficiently as reasonably possible, without performing unnecessary Services or activities and by minimizing negative effects on the State from such winding down and cessation of Services.

12.3 Termination for Conflict of Interest

12.3.1 The State may terminate the Contract by written notice if it determines that a conflict of interest exists, including but not limited to, a violation by any of the parties hereto of applicable laws regarding ethics in public acquisitions and procurement and performance of Contracts.

In such case, the State shall be entitled to a pro-rated refund of any current development, support, and maintenance costs in accordance with Contract Part 3 - Exhibit B, *Price and Payment Schedule*, of the Contract. The State shall pay all other contracted payments that would have become due and payable if UPP

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TECHNOLOGY did not know, or reasonably did not know, of the conflict of interest.

- 12.3.2 In the event the Contract is terminated as provided above pursuant to a violation by UPP TECHNOLOGY, the State shall be entitled to pursue the same remedies against UPP TECHNOLOGY as it could pursue in the event of a default of the Contract by UPP TECHNOLOGY.

12.4 Termination Procedure

- 12.4.1 Upon termination of the Contract, the State, in addition to any other rights provided in the Contract, may require UPP TECHNOLOGY to deliver to the State any property, including without limitation, Software and Written Deliverables, for such part of the Contract as has been terminated.
- 12.4.2 After receipt of a notice of termination, and except as otherwise directed by the State, UPP TECHNOLOGY shall:
- a. Stop work under the Contract on the date, and to the extent specified, in the notice;
 - b. Promptly, but in no event longer than thirty (30) days after termination, terminate its orders and subcontracts related to the work which has been terminated and settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the State to the extent required, which approval or ratification shall be final for the purpose of this Section;
 - c. Take such action as the State directs, or as necessary to preserve and protect the property related to the Contract which is in the possession of UPP TECHNOLOGY and in which the State has an interest;
 - d. Transfer title to the State and deliver in the manner, at the times, and to the extent directed by the State, any property which is required to be furnished to the State and which has been accepted or requested by the State;
 - e. Provide written Certification to the State that UPP TECHNOLOGY has surrendered to the State all said property; and
 - f. Assist in Transition Services, as reasonably requested by the State at no additional cost.

13. CHANGE OF OWNERSHIP

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

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14. ASSIGNMENT, DELEGATION AND SUBCONTRACTS

- 14.1** UPP TECHNOLOGY shall not assign, delegate, subcontract, or otherwise transfer any of its interest, rights, or duties under the Contract without the prior written consent of the State. Such consent shall not be unreasonably withheld. Any attempted transfer, assignment, delegation, or other transfer made without the State's prior written consent shall be null and void, and may constitute an event of default at the sole discretion of the State.
- 14.2** UPP TECHNOLOGY shall remain wholly responsible for performance of the entire Contract even if assignees, delegates, Subcontractors, or other transferees ("Assigns") are used, unless otherwise agreed to in writing by the State, and the Assigns fully assumes in writing any and all obligations and liabilities under the Contract from the Effective Date. In the absence of a written assumption of full obligations and liabilities of the Contract, any permitted assignment, delegation, subcontract, or other transfer shall neither relieve UPP TECHNOLOGY of any of its obligations under the Contract nor affect any remedies available to the State against UPP TECHNOLOGY that may arise from any event of default of the provisions of the contract. The State shall consider UPP TECHNOLOGY to be the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.
- 14.3** Notwithstanding the foregoing, nothing herein shall prohibit UPP TECHNOLOGY from assigning the Contract to the successor of all or substantially all of the assets or business of UPP TECHNOLOGY provided that the successor fully assumes, in writing, all obligations and responsibilities under the Contract. In the event that UPP TECHNOLOGY should change ownership, as permitted in this Contract Part 2 – Information Technology Provisions, Section 13: *Change of Ownership*, the State shall have the option to continue under the Contract with UPP TECHNOLOGY, its successors or assigns for the full remaining term of the Contract; continue under the Contract with UPP TECHNOLOGY, its successors or assigns for such period of time as determined necessary by the State; or immediately terminating the Contract without liability to UPP TECHNOLOGY, its successors or assigns.

15. DISPUTE RESOLUTION

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

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

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Dispute Resolution Responsibility and Schedule

Level	Upp Technology	State	Cumulative Allotted Time for Resolution
Primary	Jason Shattuck <i>Project Director</i>	Brett Scholbe <i>State Project Manager (PM)</i>	5 Business days
First	Brant Pearson <i>Director</i>	Emergency Services Unit <i>Director</i>	10 Business days
Second	James Laverty <i>Managing Partner</i>	Jeffrey Meyers <i>Commissioner</i>	15 Business days

The allotted time for the first level negotiations shall begin on the date the Invoking Party's notice is received by the other party. Subsequent allotted time is days from the date that the original Invoking Party's notice is received by the other party.

16. REQUIRED WORK PROCEDURES

All work done must conform to standards and procedures established by the Department of Information Technology and the State.

16.1 Computer Use

In consideration for receiving access to and use of the computer facilities, network, licensed or developed software, software maintained or operated by any of the State entities, systems, equipment, Documentation, information, reports, or data of any kind (hereinafter "Information"), UPP TECHNOLOGY understands and agrees to the following rules:

- a. Every Authorized User has the responsibility to assure the protection of information from unauthorized access, misuse, theft, damage, destruction, modification, or disclosure.
- b. That information shall be used solely for conducting official State business, and all other use or access is strictly forbidden including, but not limited to, personal, or other private and non-State use and that at no time shall UPP TECHNOLOGY access or attempt to access any information without having the express authority to do so.
- c. That at no time shall UPP TECHNOLOGY access or attempt to access any information in a manner inconsistent with the approved policies, procedures, and /or agreements relating to system entry/access.
- d. That all software licensed, developed, or being evaluated by the State cannot be copied, shared, distributed, sub-licensed, modified, reverse engineered, rented, or sold, and that at all times UPP TECHNOLOGY must use utmost care to protect and keep such software strictly confidential in accordance with the license or any other Agreement executed by the State. Only equipment or software owned, licensed, or being evaluated by the State, can be used by UPP TECHNOLOGY. Personal software (including but not limited to palmtop sync software) shall not be installed on any equipment.

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- e. That if UPP TECHNOLOGY is found to be in violation of any of the above-stated rules, the User may face removal from the State Contract, and/or criminal or civil prosecution, if the act constitutes a violation of law.

16.2 eMail Use

Mail and other electronic communication messaging systems are State of New Hampshire property and are to be used for business purposes only. Email is defined as “internal email systems” or “State-funded email systems.” UPP TECHNOLOGY understands and agrees that use of email shall follow State standard policy (available upon request).

16.3 Internet / Intranet Use

The Internet/Intranet is to be used for access to and distribution of information in direct support of the business of the State of New Hampshire according to State standard policy (available upon request).

16.4 Regulatory Government Approvals

UPP TECHNOLOGY shall obtain all necessary and applicable regulatory or other governmental approvals necessary to perform its obligations under the Contract.

17. GENERAL PROVISIONS

17.1 Insurance Certificate

The Insurance Certificate should note the Certificate Holder in the lower left hand block including State of New Hampshire, Department of Health and Human Services, 129 Pleasant Street, Concord, NH 03301.

17.2 Exhibits

The Exhibits referred to, in and attached to the Contract Part 3 - Exhibits, are incorporated by reference as if fully included in the text.

17.3 Venue and Jurisdiction

Any action on the Contract may only be brought in the State of New Hampshire, Merrimack County Superior Court.

17.4 Survival

The terms, conditions and warranties contained in the Contract that by their context are intended to survive the completion of the performance, cancellation or termination of the Contract shall so survive, including, but not limited to, the terms of the Contract Part 3 - Exhibit D, Section 5: *Records Retention and Access Requirements*, Contract Part 3 - Exhibit E Section 6: *Accounting Requirements*, Contract Part 2 – Information Technology Provisions, Section 10: *Use of State's Information, Confidentiality*, and Contract Part 2 – Information Technology Provisions, Section 12: *Termination* which shall all survive the termination of the Contract.

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17.5 Force Majeure

Neither UPP TECHNOLOGY nor the State shall be responsible for delays or failures in performance resulting from events beyond the control of such party and without fault or negligence of such party. Such events shall include, but not be limited to, acts of God, strikes, lock outs, riots, and acts of War, epidemics, acts of Government, fire, power failures, nuclear accidents, earthquakes, and unusually severe weather.

Except in the event of the foregoing, Force Majeure events shall not include UPP TECHNOLOGY's inability to hire or provide personnel needed for UPP TECHNOLOGY's performance under the Contract.

17.6 Notices

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 following addresses.

To Vendor:
James Lavery, JD/MBA
1 Tower Lane, Suite 1910
Oakbrook Terrace, IL 60181
Tel: (630) 493-7861
Email: jlavery@upp.com

To State:
State of New Hampshire
Department of Health & Human Services
Emergency Services Unit
129 Pleasant Street
Concord, NH 03301
Tel: (603) 271-9516

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PART 3 - EXHIBIT A
STATEMENT OF WORK**

1. PROJECT OVERVIEW

- 1.1 The general scope of the project is for UPP TECHNOLOGY to provide the State with Software enhancements, and support and maintenance services for the State's Integrated Resource Management System ("IRMS"), originally purchased under DHHS RFB 2010-116, in accordance with the terms of the Contract Documents.
- 1.2 Notwithstanding any other provision of the Contract to the contrary, no services shall continue after June 30, 2017, and the Department shall not be liable for any payments for services provided after June 30, 2017, unless and until an appropriation for these services has been received from the state legislature and funds encumbered for the SFY 2018-2019 biennia.

2. STATEMENT OF WORK

UPP TECHNOLOGY shall provide software enhancements, system maintenance and system support. Requirements include, but are not limited to, the following provisions:

2.1 Software Enhancements

UPP TECHNOLOGY shall provide software modifications (reference Contract Part 3 – Exhibit I *Special Exhibits, Certificates and Attachments*, Attachment 1, *IRMS Change Control Form*, UPP Change Control NEWNHST0001-CC14 Patient Tracking – Patient Arm Bands) to the existing web and client based Patient Registration and web Evacuation Management modules to allow for the automated printing of barcoded, scannable Patient ID bands upon completion of the patient registration process.

2.2 System Maintenance

UPP TECHNOLOGY shall support and maintain the System in all material respects as described in the applicable program Documentation through the Contract Conclusion. System Maintenance requirements are more fully described in Contract Part 3 – Exhibit G *Maintenance and Support Services*. UPP TECHNOLOGY will not be responsible for support or maintenance for Software developed or modified by the State.

UPP TECHNOLOGY shall make available to the State the latest program updates, general maintenance releases, selected functionality releases, patches, and Documentation that are generally offered to its customers, at no additional cost.

2.3 System Support

UPP TECHNOLOGY will be responsible for performing on-site or remote technical support in accordance with the Contract Documents, including without limitation the requirements, terms, and conditions contained herein. System Support requirements are more fully described in Contract Part 3 – Exhibit G *Maintenance and Support Services*.

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As part of the Software maintenance agreement, ongoing Software maintenance and support levels, including all new Software releases, shall be responded to according to the Contract Part 3 – Exhibit G *Maintenance and Support Services*, Table 1, *Performance Standards*, and in Contract Part 2 Information Technology Provisions, of these Contract Documents.

2.4 Attestation

On an annual basis, the vendor shall provide an updated Attestation to the Department in accordance with industry and internal best practices, applications and application security, based on the Software Development Life Cycle (SDLC).

2.5 Compliance

The Contractor shall attest to the Department in writing, that they maintain HIPAA / TITECH compliance upon contract signature, and on an annual basis thereafter for the life of the contract.

The Contractor shall certify to the Department in writing, that all NH State data previously held within UPP Technology or its subcontractor systems, has been destroyed in a manner consistent with industry best practices for secure data destruction.

The Contractor shall agree to and comply with, the State VPN policy, protocols, and computer use agreement, as required to maintain remote access to the NH State network and IRMS application environment.

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PART 3 - EXHIBIT B
PRICE AND PAYMENT SCHEDULE**

1. PAYMENT SCHEDULE

This is a SOLE SOURCE, FIRM FIXED PRICE CONTRACT not to exceed the Price Limitation of the Part 1 P-37 General Provisions Block 1.8 Price limitation, subject to Withhold Amounts of fifteen percent (15%) of the final quarter payment for each State Fiscal Year (SFY) for Support and Maintenance Services withheld in the last quarter of Year 1, Year 2 and Year 3 of the Contract Effective Date (Year 1) through September 30, 2018. Support and Maintenance Services are subject to *Support and Maintenance Withhold Terms*, described in Section 2 of this Exhibit B.

UPP TECHNOLOGY shall be responsible for performing its obligations in accordance with the Contract, including successful and satisfactory attainment of performance measures described in Contract Part 3, Exhibit G Maintenance and Support Services, Section 2.2.4 – Table 1, *Performance Standards*, to receive the SFY Contract Price for Support and Maintenance Services as described in Table 1, *Price and Payment Schedule*, of this section.

This Contract will allow UPP TECHNOLOGY to invoice the State in advance of each SFY quarter for the activities, Deliverables, or milestones at the Withhold Adjusted Quarterly Payment Amounts listed in Table 2 of this Exhibit B.

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PART 3 - EXHIBIT B
PRICE AND PAYMENT SCHEDULE**

Table 1 – Price and Payment Schedule*

Activities, Deliverables or Milestones	Quarterly Payment Amounts				SFY Withhold Amount	SFY Contract Price
	Q1	Q2	Q3	Q4		
SFY 2017 Enhancement – ID Printing		--	--	\$5,000--	N/A	\$5,000.00
SFY 2017 Installation of IRMS Go-Kit Laptop Upgrades	--	--	--	--	N/A	Included
SFY 2017 Installation of IRMS Web- Based Patient Tracking to Go- Kit Servers	--	--	--	--	N/A	Included
SFY 2017 Installation of IRMS Web- Based Evacuation Management to Go-Kit Servers	--	--	--	--	N/A	Included
SFY 2017 Synchronization of Go-Kit Servers with IRMS Central Server	--	--	--	--	N/A	Included
SFY 2017 Completion of v 2.7 or later Patient Management for Handheld Devices	--	--	--	--	N/A	Included
SFY 2017 Resolution of outstanding support issues carried forward from prior contract	--	--	--	--	N/A	Included

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PRICE AND PAYMENT SCHEDULE**

Table 1 -- Price and Payment Schedule -- Cont.

Activities, Deliverables or Milestones	Withhold Adjusted Quarterly Payment Amounts				SFY Withhold (15%) Subject to Withhold Release Terms	SFY Contract Price Subject to Withhold Restrictions
	Q1	Q2	Q3	Q4		
SFY 2017 Year 1 - Support and Maintenance Services	\$0.00	\$0.00	\$0.00	\$11,858.30	\$2,092.65	\$13,950.94
SFY 2018 Year 2 - Support and Maintenance Services	\$14,229.83	\$14,229.83	\$14,229.84	\$12,095.36	\$2,134.48	\$56,919.34
SFY 2019 Year 3 - Support and Maintenance Services	\$14,514.43	\$0.00	\$0.00	\$0.00	\$2,177.17	\$14,514.43
Total Support and Maintenance Services					\$6,404.30	\$85,384.71
TOTAL						\$90,384.71

*State Fiscal Year (SFY) Quarters are defined as:

Q1 – July 1 through September 30

Q2 – October 1 through December 31

Q3 – January 1 through March 31

Q4 – April 1 through June 30

2. SUPPORT AND MAINTENANCE SERVICES WITHHOLD TERMS

In the final quarter of Year 1, Year 2, and Year 3 of the Contract, the State shall Withhold fifteen percent (15%) of the fourth quarter SFY Contract Price for Support and Maintenance Services as tendered in Table 1, *Price and Payment Schedule*, of this Exhibit B. Thereafter, portions of the Withhold, identified in Table 2, *Withhold Release Schedule for Support and Maintenance Services* in this Exhibit B, shall be released retrospectively in quarter one of the following year pending successful and satisfactory performance in all quarters and all Deficiency Classes of the preceding year, as described in Exhibit G - Table 1, *Performance Standards*.

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If satisfactory performance is not fully achieved in accordance with Exhibit G - Table 1, *Performance Standards*, during the quarter or any Cure Period extension issued at the State's discretion as described in Exhibit G - Table 1, *Performance Standards*, the apportioned Quarterly Withhold Amounts listed in Table 2 - *Withhold Release Schedule for Support and Maintenance Services* of this Exhibit B, shall be forfeited for the year in which successful and satisfactory performance was not achieved. Successful and satisfactory performance will not be unreasonably withheld by the State.

Table 2 - Withhold Release Schedule for Support and Maintenance Services

Description of Period	Quarterly Withhold Amounts (15%)				SFY Withhold (15%)
	Q1	Q2	Q3	Q4	
SFY 2017	\$0.00	\$0.00	\$0.00	\$2,092.65	\$2,092.65
SFY 2018	\$0.00	\$0.00	\$0.00	\$2,134.48	\$2,134.48
SFY 2019	\$2,177.17	\$0.00	\$0.00	\$0.00	\$2,177.17
TOTAL					\$6,404.33

3. CONTRACT PRICE

Notwithstanding any provision in the Contract to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments made by the State exceed the price limitation in block 1.8 of the P-37 General Provisions ("Price Limitation"). The payment by the State of the total Contract price shall be the only, and the complete reimbursement to UPP TECHNOLOGY for all fees and expenses, of whatever nature, incurred by UPP TECHNOLOGY, in the performance hereof, including any Withholds adjustments as described in this Exhibit B.

The State will not be responsible for any travel or out of pocket expenses incurred in the performance of the Services performed under this Contract.

4. INVOICING

UPP TECHNOLOGY shall submit correct itemized invoices to the State for all amounts to be paid by the State as described in Table 1 - *Price and Payment Schedule* of this Exhibit B. All invoices submitted shall be subject to the State's prior written approval and Withhold Amount adjustments, which shall not be unreasonably withheld. UPP TECHNOLOGY shall only submit invoices for Services or Deliverables as permitted by the Contract. Invoices must be in a format as determined by the State and contain detailed information, including without limitation: itemization of each Deliverable and identification of the Deliverable for which payment is sought, and the Acceptance date triggering such payment; date of delivery and/or installation; monthly maintenance charges; any other Project or engagement costs, Withhold adjustments, or retention amounts, if applicable.

Upon Acceptance of a Deliverable, and a properly documented and undisputed invoice, the State will pay the correct and undisputed invoice within thirty (30) days of invoice receipt. Invoices will not be backdated and shall be promptly dispatched.

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Invoices shall be sent to:
DEPARTMENT OF HEALTH AND HUMAN SERVICES
EMERGENCY SERVICES UNIT
129 PLEASANT STREET
CONCORD, NH 03301

5. PAYMENT ADDRESS

All payments shall be sent to the following address:
UPP TECHNOLOGY
1 TOWER LANE, SUITE 1910
OAKBROOK TERRACE, IL 60181

6. OVERPAYMENTS TO VENDOR

UPP TECHNOLOGY shall promptly, but no later than after fifteen (15) business days, return to the State the full amount of any overpayment or erroneous payment upon discovery or notice from the State.

7. CREDITS

The State may apply credits due to the State arising out of this Contract, against UPP TECHNOLOGY's invoices with appropriate information attached.

8. ADJUSTMENTS

Notwithstanding paragraph 18 of the General Provisions P-37, an amendment limited to adjustments to amounts between budget line items, related items, amendments of related budget exhibits within the price limitation, and to adjust encumbrances between State Fiscal Years through the Budget Office if needed and justified, may be made by written agreement of both parties and may be made without obtaining approval of the Governor and Executive Council.

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

1. **Compliance with Federal and State Laws:** If the Contractor is permitted to determine the eligibility of individuals such eligibility determination shall be made in accordance with applicable federal and state laws, regulations, orders, guidelines, policies and procedures.

2. **Time and Manner of Determination:** Eligibility determinations shall be made on forms provided by the Department for that purpose and shall be made and remade at such times as are prescribed by the Department.

3. **Documentation:** In addition to the determination forms required by the Department, the Contractor shall maintain a data file on each recipient of services hereunder, which file shall include all information necessary to support an eligibility determination and such other information as the Department requests. The Contractor shall furnish the Department with all forms and documentation regarding eligibility determinations that the Department may request or require.

4. **Fair Hearings:** The Contractor understands that all applicants for services hereunder, as well as individuals declared ineligible have a right to a fair hearing regarding that determination. The Contractor hereby covenants and agrees that all applicants for services shall be permitted to fill out an application form and that each applicant or re-applicant shall be informed of his/her right to a fair hearing in accordance with Department regulations.

5. **Gratuities or Kickbacks:** The Contractor agrees that it is a breach of this Contract to accept or make a payment, gratuity or offer of employment on behalf of the Contractor, any Sub-Contractor or the State in order to influence the performance of the Scope of Work detailed in Exhibit A of this Contract. The State may terminate this Contract and any sub-contract or sub-agreement if it is determined that payments, gratuities or offers of employment of any kind were offered or received by any officials, officers, employees or agents of the Contractor or Sub-Contractor.

6. **Retroactive Payments:** Notwithstanding anything to the contrary contained in the Contract or in any other document, contract or understanding, it is expressly understood and agreed by the parties hereto, that no payments will be made hereunder to reimburse the Contractor for costs incurred for any purpose or for any services provided to any individual prior to the Effective Date of the Contract and no payments shall be made for expenses incurred by the Contractor for any services provided prior to the date on which the individual applies for services or (except as otherwise provided by the federal regulations) prior to a determination that the individual is eligible for such services.

7. **Conditions of Purchase:** Notwithstanding anything to the contrary contained in the Contract, nothing herein contained shall be deemed to obligate or require the Department to purchase services hereunder at a rate which reimburses the Contractor in excess of the Contractors costs, at a rate which exceeds the amounts reasonable and necessary to assure the quality of such service, or at a rate which exceeds the rate charged by the Contractor to ineligible individuals or other third party funders for such service. If at any

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time during the term of this Contract or after receipt of the Final Expenditure Report hereunder, the Department shall determine that the Contractor has used payments hereunder to reimburse items of expense other than such costs, or has received payment in excess of such costs or in excess of such rates charged by the Contractor to ineligible individuals or other third party funders, the Department may elect to:

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

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

8. Maintenance of Records: In addition to the eligibility records specified above, the Contractor covenants and agrees to maintain the following records during the Contract Period:

8.1. Fiscal Records: books, records, documents and other data evidencing and reflecting all costs and other expenses incurred by the Contractor in the performance of the Contract, and all income received or collected by the Contractor during the Contract Period, said records to be maintained in accordance with accounting procedures and practices which sufficiently and properly reflect all such costs and expenses, and which are acceptable to the Department, and to include, without limitation, all ledgers, books, records, and original evidence of costs such as purchase requisitions and orders, vouchers, requisitions for materials, inventories, valuations of in-kind contributions, labor time cards, payrolls, and other records requested or required by the Department.

8.2. Statistical Records: Statistical, enrollment, attendance or visit records for each recipient of services during the Contract Period, which records shall include all records of application and eligibility (including all forms required to determine eligibility for each such recipient), records regarding the provision of services and all invoices submitted to the Department to obtain payment for such services.

8.3. Medical Records: Where appropriate and as prescribed by the Department regulations, the Contractor shall retain medical records on each patient/recipient of services.

9. Audit: Contractor shall submit an annual audit to the Department within 60 days after the close of the agency fiscal year. It is recommended that the report be prepared in accordance with the provision of Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non Profit Organizations" and the provisions of Standards for Audit of Governmental Organizations, Programs, Activities and Functions, issued by the US General Accounting Office (GAO standards) as they pertain to financial compliance audits.

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

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

10. **Confidentiality of Records:** All information, reports, and records maintained hereunder or collected in connection with the performance of the services and the Contract shall be confidential and shall not be disclosed by the Contractor, provided however, that pursuant to state laws and the regulations of the Department regarding the use and disclosure of such information, disclosure may be made to public officials requiring such information in connection with their official duties and for purposes directly connected to the administration of the services and the Contract; and provided further, that the use or disclosure by any party of any information concerning a recipient for any purpose not directly connected with the administration of the Department or the Contractor's responsibilities with respect to purchased services hereunder is prohibited except on written consent of the recipient, his attorney or guardian. Notwithstanding anything to the contrary contained herein the covenants and conditions contained in the Paragraph shall survive the termination of the Contract for any reason whatsoever.

11. **Reports:** Fiscal and Statistical: The Contractor agrees to submit the following reports at the following times if requested by the Department.

11.1. **Interim Financial Reports:** Written interim financial reports containing a detailed description of all costs and non-allowable expenses incurred by the Contractor to the date of the report and containing such other information as shall be deemed satisfactory by the Department to justify the rate of payment hereunder. Such Financial Reports shall be submitted on the form designated by the Department or deemed satisfactory by the Department.

11.2. **Final Report:** A final report shall be submitted within thirty (30) days after the end of the term of this Contract. The Final Report shall be in a form satisfactory to the Department and shall contain a summary statement of progress toward goals and objectives stated in the Proposal and other information required by the Department.

12. **Completion of Services:** Disallowance of Costs: Upon the purchase by the Department of the maximum number of units provided for in the Contract and upon payment of the price limitation hereunder, the Contract and all the obligations of the parties hereunder (except such obligations as, by the terms of the Contract are to be performed after the end of the term of this Contract and/or survive the termination of the Contract) shall terminate, provided however, that if, upon review of the Final Expenditure Report the Department shall disallow any expenses claimed by the Contractor as costs hereunder the Department shall retain the right, at its discretion, to deduct the amount of such expenses as are disallowed or to recover such sums from the Contractor.

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13. Credits: All documents, notices, press releases, research reports and other materials prepared during or resulting from the performance of the services of the Contract shall include the following statement:

13.1. The preparation of this (report, document etc.) was financed under a Contract with the State of New Hampshire, Department of Health and Human Services, with funds provided in part by the State of New Hampshire and/or such other funding sources as were available or required, e.g., the United States Department of Health and Human Services.

14. Prior Approval and Copyright Ownership: All materials (written, video, audio) produced or purchased under the contract shall have prior approval from DHHS before printing, production, distribution or use. The DHHS will retain copyright ownership for any and all original materials produced, including, but not limited to, brochures, resource directories, protocols or guidelines, posters, or reports. Contractor shall not reproduce any materials produced under the contract without prior written approval from DHHS.

15. Operation of Facilities: Compliance with Laws and Regulations: In the operation of any facilities for providing services, the Contractor shall comply with all laws, orders and regulations of federal, state, county and municipal authorities and with any direction of any Public Officer or officers pursuant to laws which shall impose an order or duty upon the contractor with respect to the operation of the facility or the provision of the services at such facility. If any governmental license or permit shall be required for the operation of the said facility or the performance of the said services, the Contractor will procure said license or permit, and will at all times comply with the terms and conditions of each such license or permit. In connection with the foregoing requirements, the Contractor hereby covenants and agrees that, during the term of this Contract the facilities shall comply with all rules, orders, regulations, and requirements of the State Office of the Fire Marshal and the local fire protection agency, and shall be in conformance with local building and zoning codes, by-laws and regulations.

16. Equal Employment Opportunity Plan (EEOP): The Contractor will provide an Equal Employment Opportunity Plan (EEOP) to the Office for Civil Rights, Office of Justice Programs (OCR), if it has received a single award of \$500,000 or more. If the recipient receives \$25,000 or more and has 50 or more employees, it will maintain a current EEOP on file and submit an EEOP Certification Form to the OCR, certifying that its EEOP is on file. For recipients receiving less than \$25,000, or public grantees with fewer than 50 employees, regardless of the amount of the award, the recipient will provide an EEOP Certification Form to the OCR certifying it is not required to submit or maintain an EEOP. Non-profit organizations, Indian Tribes, and medical and educational institutions are exempt from the EEOP requirement, but are required to submit a certification form to the OCR to claim the exemption. EEOP Certification Forms are available at: <http://www.ojp.usdoj/about/ocr/pdfs/cert.pdf>.

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

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

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

- (a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.
- (b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.
- (c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

19. Subcontractors: DHHS recognizes that the Contractor may choose to use subcontractors with greater expertise to perform certain health care services or functions for efficiency or convenience, but the Contractor shall retain the responsibility and accountability for the function(s). Prior to subcontracting, the Contractor shall evaluate the subcontractor's ability to perform the delegated function(s). This is accomplished through a written agreement that specifies activities and reporting responsibilities of the subcontractor and provides for revoking the delegation or imposing sanctions if the subcontractor's performance is not adequate. Subcontractors are subject to the same contractual conditions as the Contractor and the Contractor is responsible to ensure subcontractor compliance with those conditions. When the Contractor delegates a function to a subcontractor, the Contractor shall do the following:

19.1. Evaluate the prospective subcontractor's ability to perform the activities, before delegating the function

19.2. Have a written agreement with the subcontractor that specifies activities and reporting responsibilities and how sanctions/revocation will be managed if the subcontractor's performance is not adequate

19.3. Monitor the subcontractor's performance on an ongoing basis

19.4. Provide to DHHS an annual schedule identifying all subcontractors, delegated functions and responsibilities, and when the subcontractor's performance will be reviewed

19.5. DHHS shall, at its discretion, review and approve all subcontracts.

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

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DEFINITIONS

As used in the Contract, the following terms shall have the following meanings:

COSTS: Shall mean those direct and indirect items of expense determined by the Department to be allowable and reimbursable in accordance with cost and accounting principles established in accordance with state and federal laws, regulations, rules and orders.

DEPARTMENT: NH Department of Health and Human Services.

PROPOSAL: If applicable, shall mean the document submitted by the Contractor on a form or forms required by the Department and containing a description of the Services to be provided to eligible individuals by the Contractor in accordance with the terms and conditions of the Contract and setting forth the total cost and sources of revenue for each service to be provided under the Contract.

UNIT: For each service that the Contractor is to provide to eligible individuals hereunder, shall mean that period of time or that specified activity determined by the Department and specified in Exhibit B of the Contract.

FEDERAL/STATE LAW: Wherever federal or state laws, regulations, rules, orders, and policies, etc. are referred to in the Contract, the said reference shall be deemed to mean all such laws, regulations, etc. as they may be amended or revised from the time to time.

SUPPLANTING OTHER FEDERAL FUNDS: The Contractor guarantees that funds provided under this Contract will not supplant any existing federal funds available for these services. [Note: Use the Special Provisions section to show appropriate changes to the terms outlined in the General Provisions.]

REVISIONS TO P-37 GENERAL PROVISIONS

1. Subparagraph 4 of the General Provisions of this contract, Conditional Nature of Agreement, is replaced as follows:

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including without limitation, the continuance of payments, in whole or in part, under this Agreement are contingent upon continued appropriation or availability of funds, including any subsequent changes to the appropriation or availability of funds affected by any state or federal legislative or executive action that reduces, eliminates, or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope of Services provided in Exhibit A, Scope of Services, in whole or in part. In no event shall the State be liable for any payments hereunder in excess of appropriated or available funds. In the event of a reduction, termination or modification of appropriated or available funds, the State shall have the right to withhold payment until such funds become available, if ever. The State shall have the right to reduce, terminate or modify services under this Agreement immediately upon giving the Contractor notice of such reduction, termination or

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modification. The State shall not be required to transfer funds from any other source or account into the Account(s) identified in block 1.6 of the General Provisions, Account Number, or any other account, in the event funds are reduced or unavailable.

2. Subparagraph 10 of the General Provisions of this contract, Termination, is amended by adding the following language;

10.1 The State may terminate the Agreement at any time for any reason, at the sole discretion of the State, 30 days after giving the Contractor written notice that the State is exercising its option to terminate the Agreement.

10.2 In the event of early termination, the Contractor shall, within 15 days of notice of early termination, develop and submit to the State a Transition Plan for services under the Agreement, including but not limited to, identifying the present and future needs of clients receiving services under the Agreement and establishes a process to meet those needs.

10.3 The Contractor shall fully cooperate with the State and shall promptly provide detailed information to support the Transition Plan including, but not limited to, any information or data requested by the State related to the termination of the Agreement and Transition Plan and shall provide ongoing communication and revisions of the Transition Plan to the State as requested.

10.4 In the event that services under the Agreement, including but not limited to clients receiving services under the Agreement are transitioned to having services delivered by another entity including contracted providers or the State, the Contractor shall provide a process for uninterrupted delivery of services in the Transition Plan.

10.5 The Contractor shall establish a method of notifying clients and other affected individuals about the transition. The Contractor shall include the proposed communications in its Transition Plan submitted to the State as described above.

3. Extension:

The Department reserves the right to renew the Contract for up to one (1) additional year, subject to the continued availability of funds, satisfactory performance of services and approval by the Governor and Executive Council.

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ADMINISTRATIVE SERVICES**

1. TRAVEL EXPENSES

UPP TECHNOLOGY must assume all reasonable travel and related expenses. All labor rates will be "fully loaded", including, but not limited to: meals, hotel/housing, airfare, car rentals, car mileage, and out of pocket expenses.

2. SHIPPING AND DELIVERY FEE EXEMPTION

The State will not pay for any shipping or delivery fees unless specifically itemized in the Contract.

3. ACCESS/COOPERATION

As applicable, and subject to the applicable laws and regulations, the State will provide UPP TECHNOLOGY with access to all program files, libraries, personal computer-based systems, software packages, network systems, security systems, and hardware as required to complete the contracted Services.

The State will use reasonable efforts to provide approvals, authorizations, and decisions reasonably necessary to allow UPP TECHNOLOGY to perform its obligations under the Contract.

4. STATE-OWNED DOCUMENTS AND COPYRIGHT PRIVILEGES

UPP TECHNOLOGY shall provide the State access to all State-owned documents, materials, reports, and other work in progress relating to this Contract. Upon expiration or termination of the Contract with the State, UPP TECHNOLOGY shall turn over all State-owned documents, material, reports, and work in progress relating to this Contract to the State at no additional cost to the State. Documents must be provided in both printed and electronic format.

5. RECORDS RETENTION AND ACCESS REQUIREMENTS

UPP TECHNOLOGY shall agree to the conditions of all applicable State and federal laws and regulations, which are incorporated herein by reference, regarding retention and access requirements, including without limitation, retention policies consistent with the Federal Acquisition Regulations (FAR) Subpart 4.7 Contractor Records Retention.

UPP TECHNOLOGY and its Subcontractors shall maintain books, records, documents, and other evidence of accounting procedures and practices, which properly and sufficiently reflect all direct and indirect costs invoiced in the performance of their respective obligations under the Contract. UPP TECHNOLOGY and its Subcontractors shall retain all such records for three (3) years following termination of the Contract, including any extensions. Records relating to any litigation matters regarding the Contract shall be kept for one (1) year

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following the termination of all litigation, including the termination of all appeals or the expiration of the appeal period.

Upon prior notice and subject to reasonable time frames, all such records shall be subject to inspection, examination, audit and copying by personnel so authorized by the State and federal officials so authorized by law, rule, regulation or Contract, as applicable. Access to these items shall be provided within Merrimack County of the State of New Hampshire, unless otherwise agreed by the State. Delivery of and access to such records shall be at no cost to the State during the three (3) year period following termination of the Contract and one (1) year term following litigation relating to the Contract, including all appeals or the expiration of the appeal period. UPP TECHNOLOGY shall include the record retention and review requirements of this section in any of its subcontracts.

The State agrees that books, records, documents, and other evidence of accounting procedures and practices related to UPP TECHNOLOGY's cost structure and profit factors shall be excluded from the State's review unless the cost of any other Services or Deliverables provided under the Contract is calculated or derived from the cost structure or profit factors.

6. ACCOUNTING REQUIREMENTS

UPP TECHNOLOGY shall maintain an accounting system in accordance with Generally Accepted Accounting Principles. The costs applicable to the Contract shall be ascertainable from the accounting system and UPP TECHNOLOGY shall maintain records pertaining to the Services and all other costs and expenditures.

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WARRANTIES**

1. WARRANTIES

1.1 System

UPP TECHNOLOGY warrants that the System will operate to conform to the Specifications of the user documentation.

1.2 Software

UPP TECHNOLOGY warrants that the Software, including but not limited to the individual modules or functions furnished under the Contract, is properly functioning within the System, compliant with the requirements of the Contract, and will operate in accordance with the Specifications and Terms of the Contract.

For any breach of the Support and Maintenance provisions, the State's remedy, and UPP TECHNOLOGY's entire liability, shall be: (a) the correction of program errors that cause breach of the warranty, or if UPP TECHNOLOGY cannot substantially correct such breach in a commercially reasonable manner, the State may end its program license and recover the fees paid to UPP TECHNOLOGY for the program license and any unused, prepaid technical support fees the State has paid for the program license; or (b) the re-performance of the deficient Services, or (c) if UPP TECHNOLOGY cannot substantially correct a breach in a commercially reasonable manner, the State may end the relevant Services and recover the fees paid to UPP TECHNOLOGY for the deficient Services.

1.3 Non-Infringement

UPP TECHNOLOGY warrants that it has good title to, or the right to allow the State to use, all Services, equipment, and Software ("Material") provided under this Contract, and that such Services, equipment, and Software do not violate or infringe any patent, trademark, copyright, trade name or other intellectual property rights or misappropriate a trade secret of any third party.

1.4 Viruses; Destructive Programming

UPP TECHNOLOGY warrants that the Software, Software updates, maintenance releases, and patches shall not contain any viruses, destructive programming, or mechanisms designed to disrupt the performance of the Software in accordance with the Specifications.

1.5 Compatibility

UPP TECHNOLOGY warrants that all System components, including but not limited to the components provided, including any replacement or upgraded System Software

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components provided by UPP TECHNOLOGY to correct Deficiencies or as an Enhancement, shall operate with the rest of the System without loss of any functionality.

1.6 Services

UPP TECHNOLOGY warrants that all Services to be provided under the Contract will be provided expediently, in a professional manner, in accordance with industry standards and that Services will comply with performance standards, Specifications, and terms of the Contract.

1.7 Personnel

UPP TECHNOLOGY 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.

2. WARRANTY PERIOD

The Warranty Period shall remain in effect until the conclusion or termination of this Contract and any extensions, with the exception of the warranty for non-infringement, which shall survive the termination of this Contract.

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CONTRACTOR QUOTE/PROPOSAL, BY REFERENCE**

UPP TECHNOLOGY Proposal/Quote dated March 25, 2016 and Proposal/Quote dated September 1, 2016, amended to account for an optional 3-year extension for support and maintenance, is hereby incorporated by reference as fully set forth herein.

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PART 3 - EXHIBIT G
MAINTENANCE AND SUPPORT SERVICES**

1. SYSTEM MAINTENANCE

UPP TECHNOLOGY shall maintain and support the System in all material respects as described in the applicable program documentation through the contract end date.

1.1 UPP TECHNOLOGY's Responsibility

UPP TECHNOLOGY shall maintain the System in accordance with the Contract. UPP TECHNOLOGY will not be responsible for maintenance or support for Software developed or modified by the State.

1.1.1 Maintenance Releases

UPP TECHNOLOGY shall make available to the State the latest program updates, general maintenance releases, selected functionality releases, patches, and Documentation that are generally offered to its customers, at no additional cost.

2. SYSTEM SUPPORT

2.1 UPP TECHNOLOGY's Responsibility

UPP TECHNOLOGY will be responsible for performing on-site or remote technical support in accordance with the Contract Documents, including without limitation the requirements, terms, and conditions contained herein.

As part of the Software maintenance agreement, ongoing Software maintenance and support levels, including all new Software releases, shall be responded to according to the following:

a. Class A Deficiencies

UPP TECHNOLOGY shall have available to the State, remote and/or on-call telephone assistance, with issue tracking available to the State, twenty four (24) hours per day and seven (7) days a week with an email / telephone response within two (2) hours of request; and UPP TECHNOLOGY shall provide remote diagnostic services, within four (4) hours of a request, or provide support on-site within two (2) days of a request.

b. Class B Deficiencies

The State shall notify the UPP TECHNOLOGY of such Deficiencies during regular business hours and the UPP TECHNOLOGY shall respond back within one (1) business day of notification of planned corrective action; and

c. Class C Deficiencies

The State shall notify the UPP TECHNOLOGY of such Deficiencies during regular business hours and the Contractor shall respond back within two (2) business days of notification of planned corrective action.

2.2 Performance Standards

2.2.1 Table 1, *Performance Standards*, in this section describes performance threshold(s), requirement(s), or expectation(s) that must be met by UPP TECHNOLOGY's support and maintenance

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Services to collect the full Contract Price as described in Contract Part 3, Exhibit B, Section 1, *Support and Maintenance Services Withhold Terms*.

- 2.2.2 Performance Standards are established by deficiency class as described in Table 1, *Performance Standards*, of this section. Each deficiency class corresponds to priority levels utilized by UPP TECHNOLOGY's customer service log tracking system, JIRA, at the time this Contract was written, as follows:
 - 2.2.2.1 The State's Class A Deficiency corresponds to UPP TECHNOLOGY's Highest Priority Urgent/Critical Level.
 - 2.2.2.2 The State's Class B Deficiency corresponds to UPP TECHNOLOGY's Urgent/Major priority levels.
 - 2.2.2.3 The State's Class C Deficiency corresponds to UPP TECHNOLOGY's Minor/Lowest Priority Levels.
- 2.2.3 In the event UPP TECHNOLOGY's priority levels change, the State and UPP TECHNOLOGY will reach written agreement on the State's corresponding Deficiency Classes described in Table 1, *Performance Standards*, of this section.
- 2.2.4 Failure of the State to insist upon the strict Performance Standards described in Table 1, *Performance Standards*, of this section or to exercise or delay the exercise of any related right or remedy shall not release UPP TECHNOLOGY from any responsibilities or obligations imposed by this Contract and shall not be deemed a waiver of any right of the State to insist upon the strict performance of this Contract as described in Table 1, *Performance Standards*, of this section.

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Table 1 – Performance Standards

CLASS A DEFICIENCY <i>High Priority / Urgent / Critical</i>			
Description	Response Time	Resolution Time	Performance Measure
Deficiency is critical, does not allow system to operate, no reasonable work-around as determined by the State, demands immediate action	(Telephone Support) WITHIN TWO (2) HOURS UPP TECHNOLOGY shall provide on-call telephone assistance, with issue tracking available to the State, with an email / telephone response within two (2) hours of submission of Error Report, without regard to business hours (Remote or On-site Support) WITHIN FOUR (4) HOURS UPP TECHNOLOGY shall provide remote diagnostic support services, or provide support on-site, within four (4) hours of submission of Error Report	IMMEDIATE Commence work immediately and continue until issue is resolved or work-around satisfactory to the State is deployed UPP TECHNOLOGY shall respond with a corrective action plan within TWO (2) HOURS of State submission of Error Report <i>Vendor's status updates shall be provided every two hours</i>	100% of Class A Deficiencies resolved same day as submitted

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Table 1 – Performance Standards – Cont.

CLASS B DEFICIENCY <i>Urgent/Major Priority</i>			
Description	Response Time	Resolution Time	Resolution
Deficiency is important, but does not stop operation and/or there is a work-around and user can perform tasks	State shall notify UPP TECHNOLOGY of Deficiencies during regular business hours UPP TECHNOLOGY shall respond with a corrective action plan within 24 HOURS (or one (1) business day) of State submission of Error Report	TWO (2) BUSINESS DAYS or as otherwise agreed in writing by the State when software functionality makes the application partially unusable <i>Vendor's status updates shall be provided weekly</i>	100% of Class B Deficiencies resolved within ten (10) business days of submission Error Report, or as otherwise agreed in writing by the State. In extenuating circumstances at the State's discretion, extensions may be granted in thirty (30) day increments; however, under no circumstances will extensions be granted beyond ninety (90) days

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Table 1 – Performance Standards – Cont.

CLASS C DEFICIENCY <i>Minor/Lowest Priority</i>			
Description	Response Time	Resolution Time	Performance Standard
Software Deficiency is minimal, cosmetic in nature, minimal effect on System, low priority and/or user can continue use of System	State shall notify UPP TECHNOLOGY of Deficiencies during regular business hours UPP TECHNOLOGY shall respond with corrective action plan within 48 HOURS (or two (2) business days) of submission of an Error Report by the State	NEXT SOFTWARE RELEASE/SERVICE UPDATE or as otherwise agreed in writing by the State <i>Vendor's status updates shall be provided monthly</i>	100% of Class C Deficiencies resolved by a software update, release or patch within 12 months of submission Error Report , or as otherwise agreed in writing by the State

3. SUPPORT OBLIGATIONS AND TERM

- 3.1 UPP TECHNOLOGY shall repair or replace Software, and provide maintenance of the Software in accordance with the Specifications and terms and requirements of the Contract;
- 3.2 UPP TECHNOLOGY shall maintain a record of the activities related to warranty repair or maintenance activities performed for the State;
- 3.3 For all maintenance Services calls, UPP TECHNOLOGY shall ensure the following information will be collected and maintained: 1) nature of the Deficiency; 2) current status of the Deficiency; 3) action plans, dates, and times; 4) expected and actual completion time; 5) Deficiency resolution information, 6) Resolved by, 7) Identifying number i.e. work order number, 8) Issue identified by; and
- 3.4 UPP TECHNOLOGY shall work with the State to identify and troubleshoot potentially large-scale System failures or Deficiencies by collecting the following information: 1) mean time between reported Deficiencies with the Software; 2) diagnosis of the root cause of the problem; and 3) identification of repeat calls or repeat Software problems.
- 3.5 If UPP TECHNOLOGY fails to correct a Deficiency within the allotted period of time stated above in Table 1, *Performance Standards*, of Section 2.2 or any extension thereof as agreed by the State, UPP TECHNOLOGY shall be deemed to have committed an Event of Default,

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SNS RESOURCE MANAGEMENT AND PATIENT TRACKING SYSTEM
CONTRACT 2017-012 DHHS IRMS
PART 3 - EXHIBIT G
MAINTENANCE AND SUPPORT SERVICES**

and the State shall have the right, at its option, to pursue the remedies in Contract Part 1- P37 Agreement, General Provisions, Section 8 *Event of Default/Remedies*, in Contract Part 2 – Information Technology Provisions, Section 12.1 *Termination for Default*, as well as to return UPP TECHNOLOGY's product and receive a refund for all amounts paid to UPP TECHNOLOGY, including but not limited to, applicable license fees, within ninety (90) days of notification to UPP TECHNOLOGY of the State's refund request.

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REQUIREMENTS**

BUSINESS REQUIREMENTS

State Requirements					
Req #	Requirement Description	Criticality			
SUBHEAD					
B1.1	Application Enhancement: Modification of the existing web and client based Patient Registration and web Evacuation Management modules to allow for the automated printing of barcoded scannable Patient ID bands upon completion of the registration process		No	Custom	Pending Approval of Change Control
B1.2	IRMS Go-Kit Laptop Servers (15): Vendor to upgrade the MS SQL database software version (software and licensing to be supplied by state) to SQL 2012 Standard, at no additional cost to state			Future	Upp will create a gold standard GoKit with the State provided MS SQL Media including steps B1.3-5. Upp will provide the gold standard GoKit back to the State with the expectation that the State will clone/image the remaining GoKits. In addition, UPP will create the same gold standard Gokit image as noted above, to a second Gokit laptop currently containing the ITE SmartSystems Console that was installed by UPP and cannot be reimaged to prevent loss of handheld licensing data.
B1.3	IRMS Go-Kit Laptop Servers (15): Vendor to upgrade the current IRMS client software version from 2.6 to the version 2.7.0.1525; and, will install the web based patient tracking and evacuation management modules, at no additional cost to the state.			Future	
B1.4	IRMS Go-Kit Laptop Servers (15): Vendor to install the web based IRMS patient tracking and evacuation management modules, at no additional cost to the state.			Future	

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B1.5	IRMS Go-Kit Laptop Servers (15): Vendor to install and test the necessary software to perform database synchronization between the server laptops (15) and the IRMS Central Server database, at no additional cost to the state.			Future	" +Contingent on the domain service account to facilitative web synchronization
B1.6	Vendor to complete, test and deploy the version 2.7 web based patient tracking questionnaire and dispensing capabilities for Windows CE handheld devices, at no additional cost to the state.			Future	
B1.7	Vendor to complete outstanding troubleshooting and repair of software issues currently defined in the vendor's incident tracking system, at no additional cost to the state.			Standard	Included upon payment of annual support and maintenance fees

TESTING

APPLICATION SECURITY TESTING

T1.1	All components of Software enhancements shall be reviewed and tested, including ensuring they protect related data assets.	M	Yes	Standard	Upp employs a structured SDLC based on Agile/Scrum, PMI PMBOK. SQA includes R&D Unit testing, IV&V or peer testing for functionality per design and business process compliance (per the client and environment), Automated/Load testing to simulate projected volume, Regression testing, Integration testing, as applicable. Then Functional testing in the Test environment and client UAT managed by the PMO. Web-based issue tracking and reporting is provided with JIRA.
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					where deficiencies are categorized according to criticality with the most critical items assigned the highest priority. Resolution includes analysis, duplication in a Test sandbox, re-development, internal re-testing and release for re-testing in UAT and sign-off.
T1.2	The Vendor shall be responsible for security testing, as appropriate. Tests shall focus on the technical, administrative and physical security controls that have been designed into the System architecture in order to provide the necessary confidentiality, integrity and availability.	M	Yes	Standard	Upp R&D takes security considerations and risks into account such as unauthorized access, application/OS patch vulnerabilities, known methods of attack, viruses, etc. Developers work from a set of customized guidelines compiled from best practices and government compliances, such as HIPAA in healthcare (RBAC is built into the system architecture). R&D employs FxCop within Visual Studio to identify potential weaknesses/ threats, e.g., in the areas of security, correctness, library design, etc. Security testing is performed with Functional testing and with deployment in the Test environment. Subsequent testing would fall to the State of New Hampshire who is hosting the application and database.

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T1.3	Test for Identification and Authentication; supports obtaining information about those parties attempting to log onto a system or application for security purposes and the validation of users	M	Yes	Standard	In the client application, failed attempts are tracked and will lock accounts based on a failed login attempts parameter. Upp does not record the details of the failed attempt.
T1.4	Test for Access Control; supports the management of permissions for logging onto a computer or network	M	Yes	Standard	IRMS utilizes role-based security and will only allow access to modules configured within the security code.
T1.5	Test for encryption; supports the encoding of data for security purposes, and for the ability to access the data in a decrypted format from required tools.	M	Yes	Standard	IRMS supports the use of encrypted data for security purposes as well as the ability to access data in a decrypted format.
T1.6	Test the Intrusion Detection; supports the detection of illegal entrance into a computer system	M	Yes	Standard	In the client application, failed attempts are tracked and will lock accounts based on a failed login attempts parameter.
T1.7	Test the Verification feature; supports the confirmation of authority to enter a computer system, application or network	M	Yes	Standard	IRMS will enforce authority to access the system based on security role configuration and assignment.
T1.8	Test the User Management feature; supports the administration of computer, application and network accounts within an organization.	M	Yes	Standard	IRMS supports the administration of user and security configuration including security role, user profile, and security assignment.

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T1.9	Test Role/Privilege Management; supports the granting of abilities to users or groups of users of a computer, application or network	M	Yes	Standard	Upp solutions support Role Based Access Control and least privilege for discrete user/role access control and the Advanced Encryption Standard. With RBAC, levels of security can be assigned, granting and denying access, including discrete permissions for Agency/org unit/user/role appropriate security. Our solutions also support in-flight, point-to-point security, and optional methods such as HTTPS, SSL. At-rest field encryption is designed to be unlockable only by the system itself using SHA/AES algorithms. And the Mobile app employs WPA/WPA2. The underlying architecture is built-in. Security testing is performed with Functional testing and with deployment in the Test environment. Subsequent testing would fall to New Hampshire who is hosting the application and database.
T1.10	Test Audit Trail Capture and Analysis; supports the identification and monitoring of activities within an application or system	M	Yes	Standard	Upp solutions support a complete audit trail to US FDA 21 CFR Part 11 compliance standards required in the handling of controlled substances like pharmaceuticals. This includes all the details of inventory items and

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					transactions. Who is responsible for what, when, involving what items including Lot Control, where to the micro-level, and how/why (or with what authority)? Data is historical, available online, on-demand, and to reporting. The system also supports a change audit for inventory items and locations. This provides an ongoing, historical log of record changes, including old value, new value, who by user ID performed the editing and when with system time/date stamp.
T1.11	Test Input Validation; ensures the application is protected from buffer overflow, cross-site scripting, SQL injection, and unauthorized access of files and/or directories on the server.	M	Yes	Standard	IRMS has been verified using Appscan to ensure there are no vulnerabilities associated with buffer overflow, cross-site scripting, SQL injection, and unauthorized access of files and/or directories on the server.
T.1.12	For web applications, ensure the application has been tested and hardened to prevent critical application security flaws. (At a minimum, the application shall be tested against all flaws outlined in the Open Web Application Security Project (OWASP) Top Ten (http://www.owasp.org/index.php/OWASP_Top_Ten_Project))	M	Yes	Standard	All web applications were previously scanned using IBM Appscan. We have moved to Zed Attack Proxy and will provide output from the Zed Attack Proxy application scan.

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T1.13	Provide the State with validation of 3rd party security reviews performed on the application and system environment. The review may include a combination of vulnerability scanning, penetration testing, static analysis of the source code and expert code review (please specify proposed methodology in the comments field).	M	Yes	Standard	We can provide an independent code review of the Progress source code.
T1.14	Prior to the System being moved into production, the Vendor shall provide results of all security testing to the Department of Information Technology for review and acceptance.	M	Yes	Standard	Upp develops and implements solutions using Agile/Scrum, guided by Best Practices including PMI PMBOK and GAMP (required in development and testing of software used in the handling of pharmaceuticals). As such, disciplined design, documentation, development, SQA and implementation meta-methodologies are adhered to. In testing, this may include Test Plan, schedule & approach, assignment of resources, identification of Artifacts (test cases/scripts, criteria, expected results, conditions), procedures, defect tracking and reporting. Applicable documentation is provided. Subsequent security testing and results fall to New Hampshire who is hosting the application and database.
T1.15	Vendor shall provide documented procedure for migrating application modifications from the User Acceptance Test Environment to the Production Environment.	M	Yes	Future	TBD

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STANDARD TESTING					
T2.1	The Vendor must test the software and the system using an industry standard and State approved testing methodology.	M	Yes	Standard	
T2.2	The Vendor must perform application stress testing and tuning.	M	Yes	Standard	
T2.3	The Vendor must provide documented procedure for how to sync Production with a specific testing environment.	M	Yes	Standard	Upp currently provides this service as needed as part of the annual support and maintenance agreement
T2.4	The vendor must define and test disaster recovery procedures.	M	Yes	Standard	Not Applicable: This provision would fall to the State of New Hampshire who is hosting the application and database

SUPPORT & MAINTENANCE REQUIREMENTS					
SUPPORT & MAINTENANCE REQUIREMENTS					
	Requirement Description	Priority			
S1.1	The Vendor's System support and maintenance shall commence upon the Effective Date and extend through the end of the Contract term, and any extensions thereof.	M	Yes	Standard	Vendor access via State VPN
S1.2	Maintain the software in accordance with the Specifications, terms, and requirements of the Contract, including providing, upgrades and fixes as required.	M	Yes	Standard	Included upon payment of annual support and maintenance fees
S1.3	Repair or replace the software, or any portion thereof, so that the System operates in accordance with the Specifications, terms, and requirements of the Contract.	M	Yes	Standard	Within the Liability Terms
S1.4	The State shall have unlimited access, via phone or email, to the Vendor technical support staff between the hours of 8:00 a.m. to 5:00 p.m.- Monday thru Friday EST; except Class A Deficiencies are	M	Yes	Standard	Included upon payment of annual support and maintenance fees

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	subject to Vendor coverage 7 days a week, 24 hours a day, 365 days a year in accordance with Contract Documents .				
S1.5	The Vendor shall make available to the State the latest program updates, general maintenance releases, selected functionality releases, patches, and Documentation that are generally offered to its customers, at no additional cost.	M	Yes	Standard	Included upon payment of annual support and maintenance fees
S1.6	The Vendor shall maintain a record of the activities related to repair or maintenance activities performed for the State.	M	Yes	Standard	Via JIRA incident tracking
S1.7	For all maintenance Services calls, The Vendor shall ensure the following information will be collected and maintained: 1) nature of the Deficiency; 2) current status of the Deficiency; 3) action plans, dates, and times; 4) expected and actual completion time; 5) deficiency resolution information, 6) resolved by, 7) identifying number (i.e., work order number), and 8) issue identified by.	M	Yes	Standard	Via JIRA incident tracking
S1.8	The Vendor must work with the State to identify and troubleshoot potentially large-scale System failures or Deficiencies by collecting the following information: 1) mean time between reported Deficiencies with the Software; 2) diagnosis of the root cause of the problem; and 3) identification of repeat calls or repeat Software problems.	M	Yes	Standard	Via JIRA incident tracking

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PROJECT MANAGEMENT

State Requirements

Req #	Requirement Description	Criticality
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PROJECT MANAGEMENT

P1.1	Vendor shall provide Project Staff as specified in the Contract.	M	Yes	Standard	
P1.2	Vendor shall submit a finalized Work Plan within ten (10) days after Contract award and approval by Governor and Council. The Work Plan shall include, without limitation, a detailed description of the Schedule, tasks, Deliverables, critical events, task dependencies, and payment Schedule. The plan shall be updated no less than monthly	M	Yes	Future	Timeframe for Plan updates to be agreed upon by both parties
P1.3	Vendor shall provide detailed b-weekly status reports on the progress of the Project.	M	Yes	Standard	Timeframe to be agreed upon by both parties
P1.4	All user, technical, and System Documentation as well as Project Schedules, plans, status reports, and correspondence must be maintained as project documentation.	M	Yes	Standard	Provided Email/PDF/Word
P1.5	Vendor must specify document repository to be used. If maintained on vendor site, the documentation must be turned over to the State of NH at project termination.		NA	NA	Not Applicable: This provision would fall to the State of New Hampshire who is hosting the application and database

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SPECIAL EXHIBITS, CERTIFICATES AND ATTACHMENTS**

Attached are:

- A. Contract Attachment A – Department of Health and Human Services' Special Exhibits D through J
- B. Contractor's Certificate of Vote/Authority
- C. Contractor's Certificate of Good Standing
- D. Contractor's Certificate of Insurance
- E. Attachment 1 – IRMS Change Control Form
- F. Attachment 2 – UPP TECHNOLOGY's Proposal/Quote dated 3/25/16 and Proposal/Quote dated 9/1/2016, amended to account for an optional 3-year extension for support and maintenance.
- G. Attachment 3 - UPP TECHNOLOGY's Software License, Maintenance and Support Agreement.



CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

The Contractor 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 GRANTEEES 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

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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.

Contractor Name: UPP TECHNOLOGY, INC.

Date 2/24/17

Name: Debra Upp
Title: CEO

Contractor Initials DU
Date 2/24/17

New Hampshire Department of Health and Human Services
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CERTIFICATION REGARDING LOBBYING

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

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

Programs (indicate applicable program covered):

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

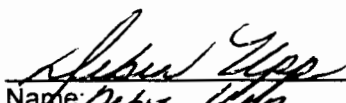
The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor).
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor), the undersigned shall complete and submit Standard Form LLL, (Disclosure Form to Report Lobbying, in accordance with its instructions, attached and identified as Standard Exhibit E-I.)
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.

Contractor Name: UPP TECHNOLOGY, INC.

2/24/17
Date


Name: Devin Upp
Title: CEO



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

The Contractor 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

[Signature]
2/24/17

New Hampshire Department of Health and Human Services
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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 (l)(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.

Contractor Name: UPP TECHNOLOGY, INC.

Date

2/24/17

Name:
Title:

Debra Kapp
CEO

UPP
2/24/17

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

The Contractor 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:

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

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

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

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

New Hampshire Department of Health and Human Services
Exhibit G



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 Contractor 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 Contractor agrees to comply with the provisions indicated above.

Contractor Name: UPP TECHNOLOGY, INC.

2/24/17
Date

[Signature]
Name: Debra Upp
Title: CEO

**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 Contractor 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 Contractor 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.

Contractor Name: **UPP TECHNOLOGY, INC.**

Date 2/24/17

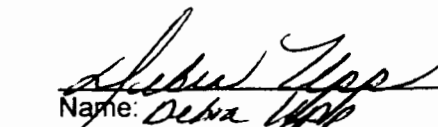

Name: Debra Upp
Title: CEO



Exhibit I

HEALTH INSURANCE PORTABILITY 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.

[Signature]
2/24/17



Exhibit I

- l. "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

[Signature]
2/24/17



Exhibit I

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

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

(3) Obligations and Activities of Business Associate.

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

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

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



Exhibit I

- pursuant to this Agreement, with rights of enforcement and indemnification from such business associates who shall be governed by standard Paragraph #13 of the standard contract provisions (P-37) of this Agreement for the purpose of use and disclosure of protected health information.
- f. Within five (5) business days of receipt of a written request from Covered Entity, Business Associate shall make available during normal business hours at its offices all records, books, agreements, policies and procedures relating to the use and disclosure of PHI to the Covered Entity, for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of the Agreement.
 - g. Within ten (10) business days of receiving a written request from Covered Entity, Business Associate shall provide access to PHI in a Designated Record Set to the Covered Entity, or as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR Section 164.524.
 - h. Within ten (10) business days of receiving a written request from Covered Entity for an amendment of PHI or a record about an individual contained in a Designated Record Set, the Business Associate shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under 45 CFR Section 164.526.
 - i. Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.
 - j. Within ten (10) business days of receiving a written request from Covered Entity for a request for an accounting of disclosures of PHI, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill its obligations to provide an accounting of disclosures with respect to PHI in accordance with 45 CFR Section 164.528.
 - k. In the event any individual requests access to, amendment of, or accounting of PHI directly from the Business Associate, the Business Associate shall within two (2) business days forward such request to Covered Entity. Covered Entity shall have the responsibility of responding to forwarded requests. However, if forwarding the individual's request to Covered Entity would cause Covered Entity or the Business Associate to violate HIPAA and the Privacy and Security Rule, the Business Associate shall instead respond to the individual's request as required by such law and notify Covered Entity of such response as soon as practicable.
 - l. Within ten (10) business days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from, or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-up tapes of such PHI. If return or destruction is not feasible, or the disposition of the PHI has been otherwise agreed to in the Agreement, Business Associate shall continue to extend the protections of the Agreement, to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business



Exhibit I

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

(4) Obligations of Covered Entity

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

(5) Termination for Cause

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

(6) Miscellaneous

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



Exhibit I

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

NH DEPTMENT OF HEALTH
AND HUMAN SERVICES

The State

Leigh A. Cheney

Signature of Authorized Representative

Leigh A. Cheney

Name of Authorized Representative

Director

Title of Authorized Representative

2/27/17

Date

UPP TECHNOLOGY, INC.

Name of the Contractor

Debra Upp

Signature of Authorized Representative

Debra Upp

Name of Authorized Representative

CEO

Title of Authorized Representative

2/24/17

Date

New Hampshire Department of Health and Human Services
Exhibit J



**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.

Contractor Name: **UPP TECHNOLOGY, INC.**

Date 2/24/17

Name: Debra Upp
Title: CEO

New Hampshire Department of Health and Human Services
Exhibit J

**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: 121280515
2. In your business or organization's preceding completed fiscal year, did your business or organization receive (1) 80 percent or more of your annual gross revenue in U.S. federal contracts, subcontracts, loans, grants, sub-grants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

☒ NO ☐ YES

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

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

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

☐ NO ☐ YES

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

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

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

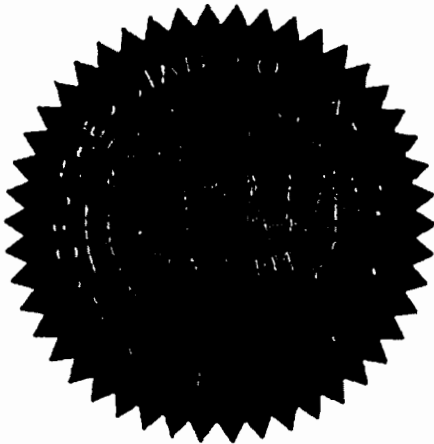
Name: _____	Amount: _____
Name: _____	Amount: _____
Name: _____	Amount: _____
Name: _____	Amount: _____
Name: _____	Amount: _____

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 UPP Technology, Inc. a(n) Illinois corporation, is authorized to transact business in New Hampshire and qualified on May 17, 2010. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto
set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 14th day of June, A.D. 2016

A handwritten signature in cursive script, reading "William M. Gardner", is written above the printed name.

William M. Gardner
Secretary of State

CERTIFICATE OF AUTHORITY

(Sole Proprietor)

I, Jesus Upp, as a Sole Owner of my Business, Upp Technology, Inc.
certify that I am authorized to enter into a contract with the State of New Hampshire, Department
of Health and Human Services, on behalf of myself.

IN WITNESS WHEREOF, I have set my hand as the Sole Owner of the Business this

24th day of February, 20 17

Jesus Upp
(Sole Owner Signature)

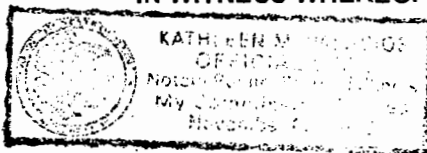
STATE OF Illinois

COUNTY OF DuPage

On this the 24th day of February, 20 17, before me, Kathleen Palanis
the undersigned Officer, personally appeared Jesus Upp, who acknowledge
her/himself to be the Sole Owner, of Upp Technology, a Business, and that
she/he, as such Sole Owner being authorized to do so, executed the foregoing instrument for the
purposes therein contained, by signing the name of the Business by her/himself as

CEO

IN WITNESS WHEREOF I hereunto set my hand and official seal.



Kathleen Palanis
(Notary Public/Justice of the Peace)

My Commission expires: 11/5/2018



UPPTECH-01

SACH

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/26/2016

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

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

PRODUCER Midwest Insurance Agency, Inc. 975 W Hawthorn Drive Itasca, IL 60143		(630) 472-2300	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS:	FAX (A/C, No):
			INSURER(S) AFFORDING COVERAGE	NAIC #
			INSURER A: National Fire Insurance Co of Hartford	
			INSURER B: CNA Insurance Company	18313
			INSURER C: Continental Casualty Company	
			INSURER D: Continental Insurance, Company	
			INSURER E:	
			INSURER F:	

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.		

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY			6012616245	4/23/2016	4/23/2017	EACH OCCURRENCE \$ 2,000,000
	☒ COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
	☐ CLAIMS-MADE ☒ OCCUR						MED EXP (Any one person) \$ 15,000
	☒ Includes E&O Coverage						PERSONAL & ADV INJURY \$ 2,000,000
	☒ \$5,000,000 Aggregate						GENERAL AGGREGATE \$ 4,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						
☐ POLICY ☒ PROJECT ☐ LOC						\$	
B	AUTOMOBILE LIABILITY			6012616259	4/23/2016	4/23/2017	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	☒ ANY AUTO						BODILY INJURY (Per person) \$
	☐ ALL OWNED AUTOS	☐ SCHEDULED AUTOS					BODILY INJURY (Per accident) \$
	☐ HIRED AUTOS	☐ NON-OWNED AUTOS					PROPERTY DAMAGE (PER ACCIDENT) \$
							\$
C	☒ UMBRELLA LIAB ☒ OCCUR			6012616262	4/23/2016	4/23/2017	EACH OCCURRENCE \$ 5,000,000
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE \$ 5,000,000
	☐ DED ☐ RETENTION \$						\$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			6012616231	4/23/2016	4/23/2017	☒ WC STATUTORY LIMITS ☐ OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	☐ Y ☐ N	N/A				E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	D&O/EPLI/Fiduciary			596459141	4/23/2016	4/23/2017	Limit \$1,000,000
B	3rd Party Crime Coverage			596459141	4/23/2016	4/23/2017	Liability Limit \$1,000,000

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

Proof Of Coverage

CERTIFICATE HOLDER State of New Hampshire Dept. of Health of Human Services 129 Pleasant St. 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 
--	--

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ATTACHMENT 1

IRMS Change Control Form

New Hampshire Department of Health



Upp Technology, Inc
3075 Highland Parkway
Downers Grove, IL 60515

+1 800.777.6092 Free
+1 630.493.7800 Local
+1 630.353.6915 Fax

info@upp.com
www.upp.com

Change ID: NEWNHST001-CC14		Desc: Patient Tracking - Patient Arm Bands	
File Name: NEWNHST001-CC14 Patient Tracking - Patient Arm Bands			
Request Date: 05/05/2016		By: Brett Scholbe	
Creation Date: 05/12/2016		By: Jason Shattuck	
Estimate Date:		By:	
IRMS Version: v2.7.0		Estimated Delivery Date¹:	
1-10 hours	41-60 hours	Design:	QA/Test:
11-20 hours	70 hours	Develop:	Implement:
21-40 hours	81-100 hours	Document:	Total Quote Hours:
Approved By:		Approval Date:	
QA Passed By:		QA Passed Date:	
Accepted By:		Acceptance Date⁴:	

¹Upp will assign an estimated delivery date once the change control is approved.

²See note on High Level Estimated Hours at end of this document.

³See note on Fixed Bid Quote at end of this document.

⁴See note on Change Control Acceptance at end of this document.

⁵See note on Detail Level Estimated Hours at end of this document.

Document Change History:

5-12-16	All	Created Initial Document - JS
5-26-16	2	Added Evacuation Management.

Business Issue

New Hampshire requires the ability to print patient arm bands on demand from the patient tracking system.

Requirements:

1.	Patient Tracking (Web) – AddPatient.aspx and	A. New button, Save/Print ID. B. Clicking the Save/Print ID button will print a patient arm band with the bar coded patient id using a pre-defined crystal template.	
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	EditPatientinfo.aspx		
2.	IRMS PT Evacuation Management – Add EM Patient and Edit EM Patient - (EMPatient/AddEMPatientPage.aspx and EMPatient/EditEMPatientPage.aspx)	A. New button, Save/Print ID. B. Clicking the Save/Print ID button will print a patient arm band with the bar coded patient id using a pre-defined crystal template.	
3.	Patient Tracking (Desktop)	A. New button, Save/Print ID. B. Clicking the Save/Print ID button will print a patient arm band with the bar coded patient id using a pre-defined crystal template.	
4.	General Information	A. The armband only needs the patient ID bar code and human readable on it. B. The printers that will be used are Zebra HC-100 Wristband Label Printer. C. The label stock is: Zebra 10012717 Label band (https://www.barcodesinc.com/zebra/part-10012717-2k-r.htm)	

PT Web Mock-up



- Clinic
- Dashboard
- Emergency Response
- First Data Bank
- Inquiry
- Inventory Control
- Laboratory
- Maintenance
- Master File
- Medical Master Files
- NIMS Master Files
- Orders
- POD Master File
- POD Triage
- Print
- Quality Assurance
- Receiving
- Reports
- Resource Management
- Returns
- Shipping
- SNS Tables
- System Setup
- Test
- Triage System
- Dissociate Patients
- Reassign Patients
- Remove Patients
- Step 1 - Registration
- Xmi Interface

File Edit View Tools Window Help Password -

Dashboard Family List

Patient Registration

Patient ID: _____

Patient _____ Contact _____

UNITED STATES

Demographics

Gender:

Ethnicity:

Language:

Race:

DOB:

Driver's License: _____

SSN: _____

Image 

Benefit:

Patient Tracking Tools	New Functionality	Allows patient ID bar coded arm bands to be printed from the desktop and web patient tracking systems.
------------------------	-------------------	--

Quality Assurance Testing

Test Script – Status Key

O = In Testing				I = Issue Reported		P/F = Pass/Fail				
Test Condition Ref #	Status	Ref Req #	Module	Test Scenario	Expected Result	Actual Results	Exception / Normal Test	Incident #	Tester	Date
1										MM.DD.YY
5.										
6.										
7.										

System Configuration:

1			
8.			

Affected Files and Programs:

²**High Level Estimate Hours:** For all high level estimate development, the hours noted represent the anticipated effort level required to complete the change control as defined. Because these are estimates, it is possible the actual development work may take more or less than originally estimated. For all high level estimates, Upp will bill for the number of hours necessary to actually complete the change control, including all design, development testing and implementation.

³**Fixed Bid Quote:** For all fixed bid development, Upp will not bill in excess of the hours noted in the "Total Quote Hours" section of the document header. If, during the development of the change control, new requirements are introduced that require additional development time to complete and implement, Upp will initiate a separate change control document to address those changes and evaluate the associated effort in terms of hours.

⁴**Change Control Acceptance:** This modification, as all custom modifications performed to IRMS core functionality shall affect all warehouses running the same application code. Customization requiring these modifications to be specific by warehouse and not affect other warehouses running the same application code shall be considered additional modification. All customization work may incur future costs to ensure compatibility with any subsequent upgrade to future versions of the application code.

⁵**Detail Level Estimate Hours:** For all detail level estimate development, the hours noted represent the anticipated effort level required to complete each individual task related to the change control. The separate tasks include Design, Development, Quality Assurance Testing, Documentation, and Implementation of the updated or new programs that are built to address each detailed requirement. Because these are estimates, it is possible the actual development work may take more or less than originally estimated. For all detail level estimates, Upp will bill for the number of hours necessary to actually complete the change control, including all design, development, testing, and implementation. Though the detail level estimates may take longer to return, the client may request that detail level estimates be included whether or not a high level estimate is provided. In addition, detail level estimates will be included whenever a fixed bid quote is requested.

Upon delivery of modification the customer shall have a period of two calendar weeks to complete the functional review and testing of all modification specifications defined in this Change Control document and either accept the changes or report any deficiencies. After this two-week period, if customer has not notified Upp of any disputes, all modifications shall be considered complete and accepted by customer.

Upp Technology, Inc.

March 25, 2016

Quote in response to:

New Hampshire Emergency Services

irms|Support & Maintenance.V2



This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used or disclosed—in whole or in part—for any purpose other than to evaluate this proposal or quotation. If, however, a contract is awarded to this Offeror as a result of—or in connection with—the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to the restriction is contained in all sheets of this volume.

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solutions.**

Upp Technology, Inc.

upp.com

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1. SUMMARY.....	1
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Upp Technology, Inc.
1 Tower Lane, Oakbrook Terrace, Suite 1910 60181
Contact: Brant Pearson
(630) 493-7892 Phone • (630) 353-6916 Fax
bpearson@upp.com

1. SUMMARY

Support & Maintenance			
Annual Maintenance (Current System & Mods)	Original Cost	Discount	Extended
irms Maintenance & Support For the Period: 01-01-2016 to 12-31-2016	\$ 85,803.27	\$ 30,000.00	\$55,803.27
irms Maintenance & Support For the Period: 01-01-2017 to 12-31-2017	\$ 88,377.38	\$ 31,458.03	\$56,919.34
irms Maintenance & Support For the Period: 01-01-2018 to 12-31-2018	\$ 91,028.69	\$ 32,970.97	\$58,057.72

September 1, 2016

Quote in response to:

New Hampshire Emergency Services

irms|Support & Maintenance



This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used or disclosed—in whole or in part—for any purpose other than to evaluate this proposal or quotation. If, however, a contract is awarded to this Offeror as a result of—or in connection with—the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to the restriction is contained in all sheets of this volume.

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Upp Technology, Inc.

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Upp Technology, Inc.
1 Tower Lane, Oakbrook Terrace, Suite 1910 60181
Contact: Brant Pearson
(630) 493-7892 Phone • (630) 353-6916 Fax
bpearson@upp.com

1. SUMMARY

Annual Maintenance

Annual Maintenance (Current System & Mods)	Original Cost	Discount	Extended
irms Maintenance & Support For the Period: 07-01-2016 to 06-30-2017	\$ 85,803.27	\$ 30,000.00	\$55,803.27
irms Maintenance & Support For the Period: 07-01-2017 to 06-30-2018	\$ 88,377.37	\$ 31,458.03	\$56,919.34
irms Maintenance & Support For the Period: 07-01-2018 to 06-30-2019	\$ 91,028.69	\$ 32,970.96	\$58,057.73

Annual Maintenance (Current System & Mods)	Original Cost	Discount	Extended
irms Maintenance & Support For the Period: 07-01-2019 to 06-30-2020	\$ 93,759.55	\$ 34,540.67	\$ 59,218.88
irms Maintenance & Support For the Period: 07-01-2020 to 06-30-2021	\$ 96,572.34	\$ 36,169.08	\$ 60,403.26
irms Maintenance & Support For the Period: 07-01-2021 to 06-30-2022	\$ 99,469.51	\$ 37,858.18	\$ 61,611.32

agreement

Upp Technology, Inc. Software License, Maintenance and Support Agreement

This Software License, Maintenance and Support Agreement (the "Agreement") is made and entered into between UPP TECHNOLOGY, INC., an Illinois corporation having a place of business at One Tower Lane, Suite 1910, Oakbrook Terrace, IL 60181 ("UPP"), and the undersigned, an authorized representative of XXXXX with a place of business at XXXXXX ("Customer").

RECITALS

WHEREAS, UPP provides certain Products and Services which Customer desires to obtain on the basis of certain Statements of Work executed by the parties which reference and incorporate this Agreement (each a "SOW"). The SOWs more fully describe the scope, duration, and fees for the Services.

NOW, THEREFORE, in consideration of the mutual promises and obligations in this Agreement, the sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, agree as follows:

Article 1 Definitions

- 1.1 "Agreement" means these General Terms and Conditions and any other schedules, statements of work, exhibits or appendices thereto, whether attached or incorporated by reference.
- 1.2 "Change Order" means the document signed by both parties that results from a "Change Request" as defined below.
- 1.3 "Confidential Information" means, with respect to UPP, all information which UPP protects against unrestricted disclosure to others, including but not limited to: (a) the UPP Software, Documentation, Work Product and other UPP materials, including without limitation the following information regarding the UPP software: (i) computer software (object and source codes), programming techniques and programming concepts, methods of processing, system designs embodied in the software; (ii) benchmark results, manuals, program listings, data structures, flow charts, logic diagrams, functional specifications, file formats; and (iii) discoveries, inventions, concepts, designs, flow charts, documentation, product specifications, application program interface specifications, techniques and processes relating to the software; (b) the research and development or investigations of UPP; (c) product offerings, content partners, product pricing, product availability, technical drawings, algorithms, processes, ideas, techniques, formulas, data, schematics, trade secrets, know-how, improvements, marketing plans, forecasts and strategies; and (d) any information about or concerning any third party (which information was provided to UPP subject to an applicable confidentiality obligation to such third party). With respect to Customer, "Confidential Information" means all information which Customer protects against unrestricted disclosure to others and which (i) if in tangible form, Customer clearly identifies as confidential or proprietary at the time of disclosure; and (ii) if in intangible form (including disclosure made orally or visually), Customer identifies as confidential at the time of disclosure, summarizes the Confidential Information in writing, and delivers such summary within thirty (30) calendar days of any such disclosure.
- 1.4 "Consultants" means employees and third party contractors which UPP utilizes to provide Professional Services to Customer.
- 1.5 "Deliverables" means the Work Products requisitioned by an Order Form, SOW and/or Change Order.
- 1.6 "Documentation" means UPP's documentation which is delivered to Customer under this Agreement.
- 1.7 "Intellectual Property Rights" means patents of any type, design rights, utility models or other similar invention rights, copyrights, mask work rights, trade secret, know-how or confidentiality rights, trademarks, trade names and service marks and any other intangible property rights, including applications and registrations for any of the foregoing, in any country, arising under statutory or common law or by contract and whether or not perfected, now existing or hereafter filed, issued, or acquired.
- 1.8 "Managed Hosting Services" means providing a hardware and software platform for the Customer Applications, together with related services as described herein.
- 1.9 "Modification" means a change to the Software that changes the delivered source code or an enhancement to the Software that is made using UPP tools or utilizing or incorporating UPP Proprietary Information.
- 1.10 "Named User" means Customer's and its Affiliates' employees, agents, contractors, consultants, suppliers or other individuals who are authorized by Customer to create, retrieve, update and delete data into/from the Customer Applications. Named User License is per designated individual and may be transferred to a substitute designee.
- 1.11 "Order Form" means the written order form or other ordering documentation entered into by UPP and Customer containing the financial terms and product/service descriptions.
- 1.12 "Permitted Users" means Named Users, Surge Users, Customer IT staff who support the Customer use of the Software, and Read-only Users.
- 1.13 "Mobile Computer Devices" means workstations, mobile or stationary computers, that accesses the Software.
- 1.14 "Professional Services" means the training, installation, customization, report writing, and other services that UPP provides to Customer pursuant to Exhibit A and an Order Form and/or SOW.

agreement

- 1.15 "Proprietary Information" means: (i) with respect to UPP, the Software and Documentation, any other third-party software licensed with or as part of the Software, benchmark results, manuals, program listings, data structures, flow charts, logic diagrams, functional specifications; (ii) the concepts, techniques, ideas, and know-how embodied and expressed in the Software and (iii) information reasonably identifiable as the confidential and proprietary information of UPP.
- 1.16 "Read Only Users" means Customer personnel who retrieve data from the Software in an inquiry mode only.
- 1.17 "Software" means (i) all software specified in agreed upon Appendices hereto, developed by or for UPP and its affiliates entities and delivered to Customer hereunder; (ii) any new releases thereof made generally available pursuant to Support; and (iii) any complete or partial copies of any of the foregoing.
- 1.18 "SOW" and "Statement of Work" means a document signed by both parties that supplements an Order Form for Professional Services by providing details as to the scope of work to be provided, respective responsibilities of the parties, deliverables and other business agreements.
- 1.19 "Surge Users" means a temporary Named User whose access shall not exceed four months in one calendar year.
- 1.20 "System" means, collectively the Customer Applications, Documentation, infrastructure, and supporting software and hardware used.
- 1.21 "Use" means to activate the processing capabilities of the Software, load, execute, access, employ the Software, or display information resulting from such capabilities.

Article 2 License Grant

2.1 Software License.

- a. UPP grants, a non-exclusive perpetual license to Use the Software, Documentation, other UPP Proprietary Information, (i) within specified site(s) to run Customer's internal business operations, (ii.) for any individuals that Use the Software including Customer Employees, Agents and Business Partners that are licensed as Named Users; and (iii.) to provide internal training and testing for such internal business operations and as further set forth in SOW hereto.
- b. Customer agrees to install the Software only on hardware identified by Customer pursuant to this Agreement that has been previously approved by UPP in writing or otherwise officially made known to the public as appropriate for Use or interoperation with the Software.

- 2.2 Mobile Computer License. This Agreement includes products and services as identified in the Deliverables and UPP will transfer license, title and rights to customer upon payment.

Article 3 Verification

- 3.1 UPP shall be permitted to audit (at least once annually and in accordance with standard procedures) the usage of the UPP Proprietary Information. In the event an audit reveals that Customer underpaid License and/or Support Fees to UPP, Customer shall pay such underpaid fees based on UPP's list of prices and conditions in effect at the time of the audit.

Article 4 Price and Payment

- 4.1 License Fees. In consideration of the license granted to the Customer under Section 2.1 hereof, Customer shall pay UPP fifty (50%) percent of the Software Licenses and User Seat Licenses fee upon signing this Agreement; thirty (30%) percent of the Software Licenses and User Seat Licenses upon installation; and the remaining twenty (20%) percent of the Software Licenses and User Seat Licenses upon the Go Live Date.
- 4.2 Annual Maintenance & Support License Fee. Annual Maintenance and Support shall begin at the completion of the Warranty Period. Customer shall pay UPP an Annual Maintenance fee of ten (10%) percent and Support License fee of ten (10%) percent of the Software Licenses and User Seat Licenses.
- 4.3 Taxes. Fees and other charges described in this Agreement do not include federal, state or local sales, VAT, GST, foreign withholding, use, property, excise, service, or similar transaction taxes. With respect to state/local sales tax, direct pay permits or valid tax-exempt certificates must be provided to UPP at the execution of the associated SOW. If UPP is required to pay Taxes, Customer shall reimburse UPP for such amounts.
- 4.4 Outstanding Fee Charges. Any fees not paid when due shall accrue interest at the rate of 1.5% per month, but not to exceed the maximum amount as allowed by law.
- 4.5 Non-Refundable. Except as expressly set forth in this Agreement or the Order Form, all purchase and service fees are non-refundable. Customer shall have no right to withhold or reduce fees under this Agreement or set off any amount against fees owed, for alleged defects in the software or services.

Article 5 Term of Software License, Maintenance & Support

- 5.1 Term. The initial Term of this Agreement shall expire one (1) year from the date of this Agreement. The Term shall automatically renew for one year terms (each, as applicable a "Renewal Term"). Fees for automatic Renewal Terms will be invoiced annually and at least 60 days in advance of the renewal date. Any Renewal Term fees may be adjusted to reflect the variance of the Consumer Price Index defined by the Bureau of Labor Statistics (CPI) from the Date of the Agreement to the initial Date of the Renewal Term and will be fixed for the entirety of such automatic Renewal Terms. Either party may give the other party written notice (email acceptable) of non-renewal at least thirty (30) days prior to the end of the relevant Renewal Term.
- 5.2 End of Term Duties. Upon any termination hereunder, Customer and its Subsidiaries shall immediately cease Use of all UPP Proprietary Information. Within thirty (30) days after any termination, Customer shall deliver to UPP or destroy all copies of the UPP Proprietary Information in every form. Customer agrees to certify in writing to UPP that it and each of its Subsidiaries has performed the foregoing. Sections 3, 4, 6, 7.2, 8, 9, 11.4, 11.5 and 11.6 shall survive such termination. In the event of any termination hereunder, Customer shall not be entitled to any refund of any payments made by Customer.

agreement

Article 6 Proprietary Rights

- 6.1 Protection of Proprietary Information Customer shall not copy, translate, disassemble, or decompile, nor create or attempt to create, by reverse engineering or otherwise, the source code from the object code of the Software. Except for the rights set forth below, Customer is not permitted to make derivative works of the Software and ownership of any unauthorized derivative works shall vest in UPP. UPP and Customer agree to take all reasonable steps and the same protective precautions to protect the Proprietary Information from disclosure to third parties as with its own proprietary and confidential information. Neither party shall, without the other party's prior written consent, disclose any of the Proprietary Information of the other party to any person, except to its bona fide individuals whose access is necessary to enable such party to exercise its rights hereunder. Each party agrees that prior to disclosing any Proprietary Information of the other party to any third party, it will obtain from that third party a written acknowledgment that such third party will be bound by the same terms as specified in this Section 6 with respect to the Proprietary Information. Customer acknowledges and agrees that UPP is conferred third party beneficiary status with respect to Customer's protection of UPP's Proprietary information hereunder.
- 6.2 Modifications. Customer may request Modifications to the Software through the Change Control Process, and shall be permitted to use Modifications with the Software in accordance with this Agreement. All Modifications and all rights associated therewith shall be the exclusive property of UPP.
- 6.3 Source Code. UPP shall maintain a current version of Customers source code at no additional fee to Customer at MB Financial, located at 6111 North River Road, Rosemont, Illinois, 60018. Upon the Customer request UPP and customer may contract with a nationally recognized third party escrow repository of said source code. Customer shall be responsible for paying or reimbursing UPP for any fees associated with the third party escrow repository. MB Financial or any other third party source code repository that UPP and Customer agree to establish a relationship with shall release the code to Customer when:
- a. UPP is in default of any material provision of the License Agreement and the default has not been cured under the terms of the License Agreement, and Customer has given written notice to UPP and third party repository requesting delivery of the source code.
 - b. UPP has ceased conducting business or has filed for bankruptcy and Customer has given written notice to UPP and third party repository requesting delivery of the source code.

Article 7 Warranty

- 7.1 UPP represents and warrants that (a) it has all right, title and/or interest necessary to grant the license and rights set forth in this License Agreement and that the Software and the license and rights granted herein do not directly or indirectly violate or infringe any patent, copyright or trade secret; (b) the Software is free and clear of all liens and encumbrances, and Customer shall be entitled to use the Software as provided by this License Agreement without disturbance. UPP warrants that the Software will substantially conform to the specifications stated in the Documentation during the Warranty Period of 90 days from Installation.
- 7.2 Customer shall report any non-conformities with respect to 7.1 to UPP in writing without undue delay through an UPP approved support channel, submitting a detailed description of the problem and any information useful for rectification of the non-conformity.
- 7.3 Provided Customer complies with 7.2 such that existence of non-conformity is validated, UPP will, at its option: (i) repair the non conforming Service; or (ii) provide an appropriate work-around.
- 7.4 EXCEPT AS EXPRESSLY PROVIDED IN ARTICLE 7.1, NEITHER UPP NOR ITS VENDORS MAKE ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, REGARDING ANY MATTER, INCLUDING THE MERCHANTABILITY, SUITABILITY, ORIGINALITY, OR FITNESS FOR A PARTICULAR USE OR PURPOSE, NON-INFRINGEMENT OR RESULTS TO BE DERIVED FROM THE USE OF THE SERVICE, OR ANY INFORMATION TECHNOLOGY SERVICES, SOFTWARE, HARDWARE OR OTHER MATERIALS PROVIDED UNDER THIS AGREEMENT, OR THAT THE OPERATION OF ANY SUCH SERVICE, SOFTWARE, HARDWARE OR OTHER MATERIAL WILL BE UNINTERRUPTED OR ERROR FREE.

Article 8 Limitations of Liability

- 8.1 Limitation of Liability. ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING, EXCEPT FOR DAMAGES RESULTING FROM UNAUTHORIZED USE OR DISCLOSURE OF CONFIDENTIAL INFORMATION AND UPP'S RIGHT TO COLLECT UNPAID FEES, UNDER NO CIRCUMSTANCES AND REGARDLESS OF THE NATURE OF ANY CLAIM SHALL EITHER UPP OR CUSTOMER BE LIABLE TO EACH OTHER OR ANY OTHER PERSON OR ENTITY FOR AN AMOUNT OF DAMAGES IN EXCESS OF THE FEES PAID OR PAYABLE FOR THE APPLICABLE SOFTWARE IN THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE OF THE INCIDENT GIVING RISE TO LIABILITY OR BE LIABLE IN ANY AMOUNT FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, LOSS OF GOOD WILL OR BUSINESS PROFITS, WORK STOPPAGE, DATA LOSS, COMPUTER FAILURE OR MALFUNCTION, OR EXEMPLARY OR PUNITIVE DAMAGES.

agreement

Article 9 Customer Responsibilities and Obligations

- 9.1 Communications Equipment. Customer shall maintain, for the duration of the Term, a minimum of one (1) remote access connection for the purpose of Software Support. Customer shall ensure that personnel are available at the Customer's premises to assist in such investigation and resolution.
- 9.2 Customer Information. Customer shall provide UPP with access to and use of Customer information, data and facilities determined necessary by UPP to provide support services hereunder.
- 9.3 Reconstruction of Lost Data. Customer is responsible for maintaining a procedure external to the Software for reconstruction of lost or altered files, data, or programs. UPP shall provide Customer with an initial backup script, however Customer shall be responsible for the backup script and data content.
- 9.4 Backup Requirements. Customer shall maintain a current, functional backup of all current Software and historical data, which is loadable and free from corruption. UPP shall provide Customer with an initial backup script, however Customer shall be responsible for the backup script and data content.
- 9.5 Operator Procedures. Customer shall follow routine operator procedures as specified in the UPP operating manuals for the Software for which services are being provided hereunder.
- 9.6 UPP Diagnostic Programs. Customer will permit UPP to maintain system diagnostic programs resident on Customer's hardware for the exclusive purpose of performing diagnostics in connection with the services contemplated hereunder.
- 9.7 System Manager. Customer agrees to designate a system manager who has taken UPP's training classes for each system site, and (optionally) designated alternates, as the authorized contact(s) for support activities hereunder and to train such persons through completion of the appropriate UPP training courses. Separate persons may be designated for different UPP Software, provided that each such person is trained in the use of Customer's System and the applicable Software.

Article 10 Indemnification

- 10.1 UPP shall defend Customer and its Affiliates against claims brought against Customer by any third party alleging that Customer's use of the Service, in accordance with the terms and conditions of this Agreement, constitutes a direct infringement or misappropriation of a patent claim(s), copyright or trade secret rights. This obligation of UPP shall not apply if the alleged infringement or misappropriation results from use of the Service in conjunction with any other software or service, or unlicensed activities or use of the Service in violation of this Agreement.

Article 11 Confidentiality

- 11.1 Confidential Information shall not be used or reproduced in any form except as required to accomplish the intent of this Agreement. Any reproduction of any Confidential Information of the other party shall remain the property of the Disclosing Party and shall contain any and all confidential or proprietary notices or legends which appear on the original. With respect to the Confidential Information of the other, each party (a) shall take all Reasonable Steps (defined below) to keep all Confidential Information strictly confidential; and (b) shall not disclose any Confidential Information of the other to any person other than individuals whose access is necessary to enable it to exercise its rights and/or perform its obligations hereunder and who are under obligations of confidentiality substantially similar to those set forth herein. As used herein "Reasonable Steps" means those steps the receiving party takes to protect its own similar proprietary and confidential information, which shall not be less than a reasonable standard of care. Confidential Information of either party disclosed prior to execution of this Agreement shall be subject to the protections afforded hereunder.
- 11.2 The above restrictions on the use or disclosure of the Confidential Information shall not apply to any Confidential Information that: (a) has become generally available to the public without breach of this Agreement by the receiving party; (b) at the time of disclosure, was known to the receiving party free of restriction; or (c) the Disclosing Party agrees in writing is free of such restrictions.
- 11.3 Customer agrees that UPP may use Customer's name in customer listings or, at times mutually agreeable to the parties, as part of UPP's marketing efforts.

Article 12 Assignment

- 12.1 Customer may not, without UPP's prior written consent, assign, delegate, pledge, or otherwise transfer this Agreement, or any of its rights or obligations under this Agreement, or the Work Products and Deliverables or UPP Confidential Information, to any party, whether voluntarily or by operation of law, including by way of sale of assets, merger or consolidation.

Article 13 Independent Contractor

- 13.1 The relationship of UPP and Customer established by this Agreement is that of an independent contractor and no employment, agency, trust, partnership or fiduciary relationship is created by this Agreement.

Article 14 Force Majeure

- 14.1 Any delay or nonperformance of any provision of this Agreement (other than for the payment of amounts due hereunder) caused by conditions beyond the reasonable control of the performing party shall not constitute a breach of this Agreement, and the time for performance of such provision, if any, shall be deemed to be extended for a period equal to the duration of the conditions preventing performance.

agreement

Article 15 Governing Law

15.1 This Agreement, all amendments thereto, and all matters arising out of it are to be governed by the laws of and adjudicated in the State of Illinois. In the event of any dispute, difference or question arising between the parties in connection with this Agreement, then and in every case, unless the parties concur in the appointment of a single arbitrator, the matter of difference shall be referred to three (3) arbitrators; one to be appointed by each party, and a third being nominated by the two (2) so selected by the parties, or if they cannot agree on a third, by the American Arbitration Association. Such arbitration shall be conducted in the state of Illinois. The arbitrators must conduct the arbitration in accordance with the Commercial Association Rules of the American Arbitration Association and must base their decision with respect to the dispute, difference, or question before them on the contents of this License Agreement. The decision of any two (2) of the three (3) arbitrators may be entered in any court having jurisdiction of the dispute, difference or question and such decision shall be binding on all parties. Customer must initiate arbitration for any claim(s) arising out of or relating to this Agreement and its subject matter within one (1) year from the date when Customer knew, or should have known after reasonable investigation, of the facts giving rise to the claim(s).

Article 16 General Provisions

- 16.1 Severability. It is the intent of the parties that in case any one or more of the provisions contained in this Agreement shall be held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect the other provisions of this Agreement, and this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.
- 16.2 No Waiver. If either party should waive any breach of any provision of this Agreement, it shall not thereby be deemed to have waived any preceding or succeeding breach of the same or any other provision hereof.
- 16.3 Notice. All notices or reports which are required or may be given pursuant to this Agreement shall be in writing and shall be deemed to be duly given when delivered to the respective executive offices of UPP and Customer at the addresses first set forth above or in the applicable SOW. Where in this Section 16.3 or elsewhere in this Agreement written form is required, that requirement can be met by facsimile transmission, exchange of letters or other written form.
- 16.4 Non-Solicitation. Neither party shall knowingly solicit or hire, any of the other party's employees involved in a SOW during the term of the applicable SOW and for a period of 12 (twelve) months from the termination thereof, without the express written consent of the other party. This provision shall not restrict the right of either party to solicit or recruit generally in the media.
- 16.5 Regulatory Matters. UPP Confidential Information inclusive of all Work Product, Deliverables, Documentation and UPP Materials are subject to the export control laws of various countries, including without limit the laws of the United States. Customer agrees that it will not submit the UPP Confidential Information to any government agency for licensing consideration or other regulatory approval without the prior written consent of UPP, and will not export the Confidential Information to countries, persons or entities prohibited by such laws. Customer shall also be responsible for complying with all applicable governmental regulations of the country where Customer is registered, and any foreign countries with respect to the use of the Confidential Information by Customer and/or its subsidiaries.

This Agreement, including all applicable Documentation thereto, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements between the parties, whether written or oral, relating to the same subject matter.

IN WITNESS WHEREOF, the undersigned have signed this Agreement as effective the day and year first above written.

Upp Technology, Inc.

XXX

One Tower Lane, Suite 1910

XXX

Oakbrook Terrace, IL 60181

XXX

By: Debra Upp

By: _____

Printed Name: Debra Upp

Printed Name: _____

Title: CEO

Title: _____

Date: 2/24/17

Date: _____

Exhibit A Additional Terms and Conditions applicable to Professional Services.

These Professional Services Terms are effective as of the Effective Date of the Agreement ("Agreement") to which they are attached, and govern Order Forms and SOWs that requisition Professional Services. Definitions and provisions in the Agreement are incorporated by reference.

Article 1 Provision of Services

- 1.1 UPP will provide the Professional Services in accordance with the Agreement and applicable Order Forms, SOWs and/or Change Orders.
- 1.2 UPP may utilize third party contractors to perform UPP's duties. UPP shall be responsible for the performance of the Professional Services of such third party contractors to the same extent as UPP is liable for its own Consultants.
- 1.3 Notwithstanding the foregoing, any Professional Services and Work Products provided by UPP to Customer prior to the execution of the Agreement, or applicable SOW or a Change Order are the sole property and Confidential Information of UPP and shall be governed by the Agreement and these Professional Service Terms, in particular Confidentiality and Limitation of Liability.

Article 2 Customer's General Responsibilities

- 2.1 Customer is responsible for making the necessary arrangements to allow UPP to perform the Professional Services.
- 2.2 Customer shall provide and make available all Customer personnel that UPP reasonably requires in connection with performance of the Professional Services and as may be further addressed in an applicable SOW.
- 2.3 If the Professional Services are performed at Customer's site, Customer agrees to provide necessary access to its site including, but not limited to, appropriate access to Customer premises, computer systems and other facilities.
- 2.4 Customer shall appoint a contact person to supply UPP with any necessary or relevant information and who shall have the authority to make decisions or obtain decisions from others expeditiously.

Article 3 Change Request Procedures

- 3.1 During the term of a SOW, either party can request changes to that SOW in accordance with the change request form attached to the applicable SOW ("Change Request"). Both parties agree to act in good faith to address and mutually agree to any requested Change Requests within a reasonable period of time.
- 3.2 UPP will not perform under a Change Request until agreed to and signed by the parties.
- 3.3 Any Professional Services provided by UPP without a Change Request will be deemed within the scope of the applicable Order Form or SOW and governed by the fee and other agreements made therein.

Article 4 Satisfaction with Personnel

- 4.1 If at any time Customer or UPP is dissatisfied with the material performance of an assigned Consultant or a Customer project team member, the dissatisfied party shall promptly report such dissatisfaction to the other party in writing and may request a replacement. The other party shall use its reasonable discretion in accomplishing any such change (which also, in the case of UPP, shall be subject to staffing availability).

Article 5 Compensation

- 5.1 All Professional Services will be provided by UPP on a time and materials (plus pre-approved expenses) basis unless otherwise agreed by the parties in the applicable Order Form, SOW or Change Order.
- 5.2 Unless otherwise agreed in writing, the Professional Services will be invoiced in accordance with the fees or rates listed in or referenced in the applicable Order Form SOW, Change Order or Schedules and Exhibits thereto, as applicable, and paid as provided in Article 5 of the Agreement.
- 5.3 UPP is entitled to require payment in advance if there are reasonable grounds to doubt that Customer will render payment punctually, including Customer's filing for bankruptcy or similar proceeding.

Article 6 SOW Term and Termination

- 6.1 Term of a SOW. Each SOW shall be effective on the effective date set forth in that SOW, and shall remain in effect until completion of the specified Professional Services or terminated earlier by either party in accordance with Section 6.2.
- 6.2 Termination of a SOW for Convenience. Except as otherwise agreed in a SOW, each SOW may be terminated by either party upon thirty (30) days' prior written notice to the other party or as otherwise stated in an SOW. If there is more than one uncompleted SOW, each SOW may be terminated for convenience in accordance with the terms of this section without terminating the other SOWs.
- 6.3 Termination of a SOW for Cause. Either party may terminate a SOW for cause:
 - 6.3.1 upon thirty (30) days' prior written notice of the other party's material breach of any provision of the SOW, as applicable, including more than thirty (30) days delinquency in Customer's payment of any money due thereunder, unless Customer has cured such breach during such thirty (30) day period; or
 - 6.3.2 immediately if the other party files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors, or breaches materially its obligations in the Agreement.

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- 6.4 Effect of Termination. Customer shall be liable for all payments to UPP, including fees for all Professional Services, including pre-approved expenses, incurred in the performance of such Professional Services up to the date on which any termination of the SOW takes effect. In the event of termination of a SOW, all Confidential Information of the disclosing party provided in connection with the SOW in the possession of the receiving party shall be returned to the disclosing party or destroyed with certification of such destruction from an individual of authority to bind the respective party.

Article 7 Work Product

- 7.1 Except as otherwise specified in the applicable Order Form, SOW or Change Order, all title to and rights in the Professional Services, Deliverables and Work Products, and all Intellectual Property Rights embodied therein, including techniques, knowledge or processes of the Professional Services and/or Deliverables (whether or not developed for Customer), shall be the sole and exclusive property of UPP. Customer agrees to execute at UPP's expense, such documentation as reasonably necessary to secure UPP's title over such rights.
- 7.2 Customer is licensed to use Deliverables and Work Products under the terms of the Agreement.

Article 8 Warranty

- 8.1 UPP warrants that its Professional Services shall be performed in a timely, professional, and workman-like manner and with the skills reasonably required, for ninety (90) days following completion of the Service.
- 8.2 Customer shall report any non-conformities with respect to Section 8.1 to UPP in writing without undue delay through an UPP approved support channel, submitting a detailed description of the problem and any information useful for rectification of the non-conformity.
- 8.3 Provided Customer complies with Section 8.2 such that existence of non-conformity is validated, UPP will, at its option: (i) repair the non conforming Service; or (ii) provide an appropriate work-around. This is Customer's sole and exclusive remedy for a warranty breach.

Exhibit B Technical Support and Escalation Process

Definitions contained in the MSA are incorporated by reference.

I. Updates and Upgrades. Subject to Customer's payment to UPP of the Annual Fee specified in the Order Form, during the Term, UPP will provide Customer with bug fixes, error corrections, revisions, and planned releases of the Customer Applications. Generally, UPP provide 1 or 2 new releases annually and a number of enhancements, i.e., revisions. These include fixes or patches, as needed. For instance, multiple minor fixes might be grouped into a single enhancement; while, a more substantial fix may be issued as a patch and as soon as possible.

Type	Frequency	Description
Planned Release	Semi-Annual	Core Product Roadmap features & functions, as well as enhancements to Core functionality.
Revision	Quarterly	Client-requested enhancements, as well as revisions identified by internal QA and/or the user community.
Hot Fix	Emergency	Initiated in the unlikely event that an install encounters a system error that prevents a work process from being completed.

Any updates and upgrades provided to Customer by UPP will be deemed to be Customer Applications for purposes of the MSA and subject to all of the terms, conditions and restrictions related thereto.

II. Technical Support for Customer. UPP will provide 7 x 24 help desk assistance for Customer Application usage issues, Problems and System unavailability issues, with an average acknowledgement time of 15 minutes. Acknowledgement will always include an incident tracking ID and may also include additional questions to research the incident. The Acknowledgement may include, but does not always guarantee at that time, a proposed solution and estimated date/time of delivery or workaround.

Customer may request technical help by logging into UPP's JIRA®-based incident reporting and tracking system. Incident reporting through JIRA will trigger immediate notification to Customer Care and generation of a help desk ticket. Alternate means of reporting, e.g., via email, toll-free phone numbers and fax, will also be supported. In addition, UPP's System monitoring software will automatically generate a help desk ticket under circumstances described in Section IV, below.

If UPP becomes aware of any problem associated with the Customer Applications that UPP reasonably believes may impact the performance of the Customer Applications, UPP will use reasonable efforts to notify Customer of such problem and to correct the problem.

III. Customer Applications Problem Corrections. Available 24/7

Escalation Process in Response to Request. Unless otherwise agreed or UPP reduces the Response Time, the Problem Reporting and Response Time process shall be as per the table below. "**Problem**" means a failure of the Customer Applications to function in accordance with its Documentation and includes all concerns related to Customer Applications' Performance, Response Time, Error Messages and any other reasonable concern with the operation and use of the Customer Applications.

All Requests, Error Reports and Problems will be supervised by a member of the Technical Support Team. This individual will own supporting Customer at all times and will own providing resolution, coordinate any escalation, and will engage appropriate UPP resources as needed.

Escalation Table

Severity Level	Description	Response Times
Severity 1	Problem that causes a catastrophic failure of the Customer Applications, or renders the Services inoperative by Customer such that no business can be conducted by Customer using the Services.	UPP will begin to investigate the Problem within thirty (30) minutes of receiving an Error Report. Senior Management will be advised of the issue and additional resources will be assigned to diagnose and resolve the issue, if and as needed.
Severity 2	Problem that causes the performance of the Customer Applications to be substantially degraded (such as a loss of significant functionality where there is no workaround), directly affecting Customer's business, but where all or substantially all other customers can still use the Customer Applications.	UPP will begin to investigate the Problem within one (1) hour of receiving an Error Report. If not resolved within two (2) hours after investigation commences, Senior Management will be advised of the issue and additional resources will be assigned to diagnose and resolve the issue, if and as needed.
Severity 3	Problem in which certain elements of usability or certain functionality are impacted but most operations of the Customer Applications function.	UPP will begin to investigate the Problem within four (4) hours of receiving an Error Report.
Severity 4	Problem that causes little or no impact on the performance of the Customer Applications, but Customer requires assistance or advice on using the Customer Applications.	Usage issues will be handled by the Call Center during its hours of operation. Issues not resolved within four (4) business hours will be assigned to a more experienced support technician for research, with a goal of developing a solution within two (2) business days.

Resolution. Resolution of a Request, Error Report or Problem will include (but are not limited to):

- Directing Customer to Documentation (e.g. Manual, Guide, Video Training, etc.).
- Assisting "hands on" via telephone/webex (e.g. guiding through action required).
- If authorized in advance and in writing, by logging into Customer application to investigate and/or perform agreed action to resolve.
- Providing recommendations such as improvements, alternative techniques, leveraging Professional Services, etc. (e.g. regarding current and potential/best practice design and use of application).
- Delivering a Customer Applications enhancement either as an immediate fix or as part of a future release.

IV. Hardware and Security Events.

Procedure for UPP Escalating to Customer. UPP will provide 24/7 support and monitoring of the optional Managed Hosting Service infrastructure that delivers the Customer Applications to Customer. This monitoring includes ensuring availability in accordance with the Service Level Agreement, and appropriate monitoring of user activity, usage and other interactions with the Customer Applications. UPP will promptly address and take steps to remedy any failures of equipment or other infrastructure required for provision of the Managed Hosting and Subscription Services.

An **Event** that may trigger escalation from UPP to a specific Customer, group of Customers or all Customers and automatic generation of a help desk ticket would include:

- Identified Hosted Service issue (e.g. specific issue related to Customer's Service Instance, actual or expected loss of availability, etc.).
- Unusual activity (e.g. high number of failed logins, significant change to Customer's UPP Service Instance(s), etc.).
- Exceptional activity (e.g. suspicion or actual successful external "attack").
- Loss of Service (e.g. event impacting Data Center that prevents availability).

Escalation to Customer will be in the form of telephone, email, notification via the UPP website, login page, alert banner and/or Announcements page based on the Severity level and judgment of the UPP authorized Executive.

Severity Level	Description	Response Times
Severity 1	Event that is highly suspected or confirmed as having involved an unauthorized access to Customer's data.	Immediate escalation to Customer (and suspension of Service based on judgment of UPP authorized Executive).
Severity 2	Event that has caused loss of availability.	Immediate investigation. Reporting (one time, periodic updates, etc.) to Customer based upon anticipated downtime and impact.
Severity 3	Event that is suspected to involve attempted unauthorized access to Customer's data.	UPP will begin to investigate the Problem within one (1) hour of receiving an Error Report and escalate to Severity 1 as appropriate. A Severity 3 Event may be escalated to Customer based on judgment of UPP authorized Executive.

Notification. The process for notifying customers is as follows:

- Investigation and information gathering and determine actual and potential impact to customers.
- Issue email notification to impacted customers describing the situation, what procedures are underway to rectify the issue and, if possible, when resolution is expected (if only "best guess").
- Follow on communications are sent as appropriate until resolution of the issue. If issue expected to continue for extended period (defined as greater than 1 hour) additional communication media may be used such as telephone, UPP website, login page, alert banner, and/or Announcements page.
- Post resolution, a final email is sent summarizing the situation and, if appropriate, changes made to processes to prevent a recurrence of the same issue.
- Typically, all communication is funneled through Support to ensure that all issues are logged and consistent information is distributed.

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Resolution. Resolution to an Event will include (but is not limited to):

- Collaborative investigation between Customer and UPP to confirm actual/no actual unauthorized access occurred.
- Moving of Customer Service Instance to quarantined environment while investigating (availability continues) or use of alternative Hosted Service infrastructure (e.g. change Customer “home” cluster).
- Suspension of Hosted Service until resolution (e.g. code change, password resets, Customer confirms satisfied, etc.) completed.
- Addition of Customer Applications or Hosted Service infrastructure enhancements.

**Exhibit C
Order Form**

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**Exhibit D
Statement of Work**

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